

The
Civil Government
OF
Indiana
—
RAWLES

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THE
GOVERNMENT OF THE PEOPLE
OF THE STATE OF
I N D I A N A

BY
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REVISED EDITION.



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“KNOWLEDGE and learning generally diffused throughout a community being *essential to the preservation of a free government*, it shall be the duty of the General Assembly to provide a general and uniform system of common schools.” This quotation is introduced here to show that the makers of the Constitution of the State appreciated the truth that the first purpose of public education is the preparation of the youth for the duties and responsibilities of intelligent citizenship. They offered no other reason for the provision for schools. Is it not reasonable to suppose that a very important part of this “knowledge and learning” is a thorough understanding of the governments—both National and local—under which we live? It has seemed to the author that in the study of this subject the emphasis has been put too constantly upon the National Government and too little attention has been given to the institutions of the State and to local administration. The well-being, security and comfort of the citizen depend more intimately upon the management of local and State affairs than upon the administration of the General Government. It is in the hope that it may be helpful to a realization of the importance of the State and local governments and to a clearer conception of the obligations which grow out of the civic relation, that this book has been prepared.

It makes no pretension to be an abridgment of the statutes of Indiana nor a text-book on the history of the State. It is an attempt to give a concise outline of the governmental machinery and the forces by which it is operated. To convey a better idea of the origin and

growth of our institutions, an historical sketch of Indiana precedes the discussion proper. It has not been possible within the scope of the book to include all the details and variations of local government. Peculiarities in the government of township, town or city should be noted and the attention of pupils called to them. Concrete illustrations serve to simplify the complexities of government. The Constitution is appended in the hope that it will be the object of careful study: with this idea in mind many of its provisions have not been incorporated into the text. A copy of some of the recent editions of the Revised Statutes should be in the possession of each school. When reference has been made to the Revised Statutes it is to Horner's Revision of 1896. A scrap-book in which may be preserved clippings giving the proceedings of primaries and conventions, sample ballots, official blanks, and accounts of historical events will be helpful in arousing the interest of pupils.

It is desired to acknowledge the obligations due to many friends for favors, and especially to Mr. John W. Cravens, editor of the *Bloomington World*, for criticising the manuscript and offering timely suggestions as to the management of local affairs.

Criticisms and suggestions that will help to make the book more serviceable will be heartily welcomed.

WILLIAM A. RAWLES.

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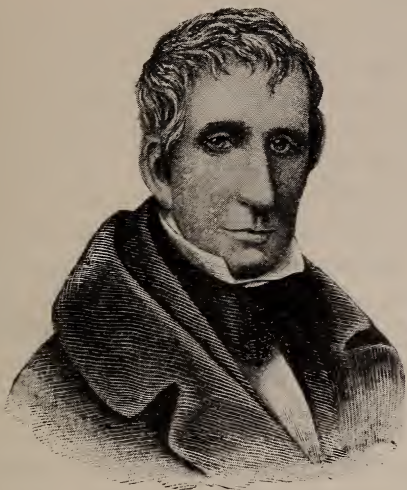
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"It will not be denied that the State government touches the citizen and his interests twenty times, where the National government touches him once."

—JAMES A. GARFIELD.

"An American may, through a long life, never be reminded of the Federal government, except when he votes at presidential or congressional elections, lodges a complaint against the post-office, and opens his trunk for a custom-house officer on the pier at New York when he returns from a tour in Europe. His direct taxes are paid to officials acting under State laws. The State, or a local authority constituted by the State statutes, registers his birth, appoints his guardian, pays for his schooling, gives him a share in the estate of his father deceased, marries him, divorces him, entertains civil action against him, declares him a bankrupt, hangs him for murder. The police that guard his house, the local boards which look after the poor, control highways, impose water rates, manage schools—all these derive their legal powers from the State alone."

—BRYCE'S *American Commonwealth*.



WILLIAM HENRY HARRISON.

THE
CIVIL GOVERNMENT
OF
INDIANA.



INTRODUCTION.

1. **The State.**—"As applied to an American Commonwealth the word State signifies a political community of free citizens, occupying a territory of defined boundaries, organized under a government sanctioned and limited by a written constitution, and established by the consent of the people. Each State or Commonwealth maintains a

republican form of government, which is guaranteed by the United States."

Hence, when we speak of the State of Indiana, we may mean one of four things: (1) That portion of the earth's surface contained within defined boundaries; (2) the people living within that territory bound together by a common interest and organized for their protection and common welfare; (3) the body of rules or laws which regulate the people in their relations one with another and which restrain their officers; (4) the government, that is, the persons selected to make the laws and to enforce them. In its fullest sense, the State signifies all of these things; the land, the people, the laws and the government.

2. The Land.—In these days, a community of people in order to constitute a State must have a permanent abode—a definite territory, within which, it and it alone,¹ exercises authority, and beyond which its laws are of no effect.

The character, extent, situation, and development of the land determine the occupation of its citizens. And these occupations in turn determine, largely, the necessity for laws, the nature of these laws, and the number and duties of officers. Since the discovery of natural gas in Indiana there has been enacted a body of laws regulating its use and distribution. Similar laws are found in few other States. On the other hand, we have no need of laws which are necessary to the peculiar conditions found in the vast State of Texas, the manufacturing States of the East or the sea-coast States of California and Louisiana.

3. The People.—The habits, beliefs and political ideas of the people, adapted so as to fit the physical conditions of a new country, will mould the constitution, laws and institutions. Indiana's system of government, more than

¹ For some purposes the National Government has authority within a State, which is superior to any power which that State may possess. (See THORPE'S *Government of the United States*, page 91.)

that of any other State north of the Ohio River, resembles the systems of the southern States. This is because the early settlement of the State was chiefly by people from the South. Michigan, in its political institutions, resembles the New England States for a similar reason. Then, too, the spirit and temper of the laws may change as the ideas of the people enlarge, as the sentiment changes, as industries develop, as immigration modifies the character of the people of the State. Thus the thoughts, feelings and conceptions of the people are reflected in their constitution and laws.

4. The Laws.—There are two kinds of law-making: the one, by the people directly; the other, by persons chosen to represent the people and to act for them. In the first place a set of men, selected by the people, meets in a convention and prepares a system of laws and maxims in the form of a written document. This document is submitted to the people for their approval or disapproval. If it be ratified by a majority of the legal voters, it is thereby enacted into law. It is then the Constitution, the fundamental law of the State. It describes the framework of the government, defines the powers and duties of the officers and declares the rights of the people. It can be changed only by the act of the people, in the manner provided in the Constitution itself. No officer or set of officers can change it and all acts or orders contrary to it are absolutely void.

But direct legislation by the people on all matters would be clearly impossible. This difficulty is avoided by provisions in the Constitution, giving authority to the representatives of the people to enact laws, subject, however, to certain limitations therein prescribed. These laws are called statutes. The statutes must always be in conformity with the Constitution. The representatives may change statutes, but they cannot change the Constitution. Whether the laws are made directly or indirectly, the people are

responsible for the good or evil flowing from them and for their enforcement.

The Constitution and statutes of Indiana must not conflict with the Constitution, treaties and laws of the United States. If there is a conflict the former must give way before the higher authority of the United States.

5. The Government.—The government is the instrument by which the State expresses and enforces its will. The people by means of the ballot select the men who are to represent them in the making of laws, those who are to interpret the laws and those who are to carry the laws into execution. This body of officials constitutes the Government. As private citizens these men may not be superior, in fact, may even be inferior, to the average citizen; but in their official capacity they stand in the place of the State and should command the respect and obedience which all citizens owe to the State. Officers must be made to suffer for conduct which dishonors the dignity or majesty of the State. Hence, provision is always made that they may be removed from office or otherwise punished for official misconduct.

6. Importance of State and Local Governments.—It is true that some of the national questions are vital and momentous, fraught with the greatest consequences to the welfare of the individual and of the Nation. But where there is one such national question, there are twenty within the scope of State authority; questions, too, that touch our life and happiness to the very quick. We are dependent upon the State for our civil and religious rights; for the right of suffrage; for the means of education; for the rules of marriage and the definition of the legal relations of husband and wife, and of parent and child; for laws regulating contracts, agency, partnership, debts, insurance, almost all corporations, the ownership and distribution of property and the exercise of trades; and for the definition of crimes and the punishment thereof (except

crimes against the laws of the United States and those committed on the high seas, or against the law of nations). "To enumerate the particulars of this vast range of powers, to detail its parts, would be to catalogue all social and business relationships, to examine all the foundations of law and order."

Efficiency and honesty in the local government, in the school district, the township, the county, and the city contribute more than the National Government, to the well-being and happiness of the home, the family and the daily life of the citizen. When it is realized that, in Indiana, the expenditure in county governments exceeds \$8,000,000 annually and that the indebtedness of towns, cities and counties aggregates more than \$14,000,000,¹ the importance of good local government can be appreciated. Governor Wright continually urged upon the people that it was more important to select good county commissioners than good Congressmen. Moreover it is only through an active participation in local government that a citizen is prepared to discharge intelligently his duties in the government of the Nation, which seems more picturesque and momentous.

¹ Exceeding the State indebtedness by \$7,000,000.



COL. GEORGE ROGERS CLARK.

CHAPTER I.

HISTORICAL SKETCH OF INDIANA.



I. FRENCH EXPLORATION AND SETTLEMENT.

7. **The First Explorers.**—Before 1670, the French had passed up the Great Lakes and had established on their shores trading posts and missions. It is possible, though the evidence is slight, that the Maumee had been explored as early as 1656. It is pretty definitely established that during the winter of 1669–70, La Salle passed down the Ohio River as far as Louisville. Joliet and Marquette explored the Mississippi River in 1673. And it was in an effort to again reach that river that Indiana soil was traversed by La Salle in 1679. In that year, he with a few followers established Fort Miamis on the St. Joseph of Lake Michigan and in December pushed up the river to the place now occupied by South Bend, crossed by a

portage of four or five miles to the headwaters of the Kankakee, and proceeded down the Illinois. During the next few years he crossed and recrossed Indiana soil in his perilous journeys to and from Canada and in his visits to the various Indian tribes.

8. Early Settlements.—In 1695, a French settlement was made at Kaskaskia, one at Cahokia in 1700, and another at Detroit in 1701. Juchereau, an officer from Montreal, established a fort on the Ohio—erroneously called the Ouabache¹—near the site of Cairo, in 1702; but it was abandoned within three years. In 1712, Louis XIV. granted to Antoine Crozat, a wealthy officer in his service, the commerce of the Mississippi Valley from the Gulf to the Illinois River, together with the Missouri and Ouabache. For its government, Louisiana was dependent upon the province of New France. In 1717, Bienville was appointed governor of Louisiana and all of the Illinois country was made a part of the province. The capital was at Mobile.

In 1723, the Territory of Louisiana was made dependent directly upon the home government, with the capital at New Orleans. Although Indiana was subordinate to the Louisiana Province, the French officials at Detroit claimed and actually exercised jurisdiction over the Indian tribes living on the upper Wabash.

Early in the eighteenth century the French determined to establish posts at advantageous points. François Morgan, Sieur de Vincennes, was sent by the governor of Canada to establish a post near the village of the Ouiatanon tribe of the Miamis. This was about 1720 and may be regarded as the earliest post within Indiana. It was on the north side of the Wabash, about four miles below the present city of Lafayette. Vincennes, a few

¹ Even as late as 1747, a map published in London by Thomas Kitchin represented the Ouabache flowing into the Mississippi.

years later (1727),¹ established a post on the Ouabache at the Piankeshaw village of Chippecoke, the present site of Vincennes. This was the first permanent settlement of white men in Indiana. With the exception of Fort Miamis on the Maumee, no further settlements were made in Indiana for many years.

For administrative purposes, Indiana was divided somewhat indefinitely between the provinces of Louisiana and Canada: Vincennes was in the Illinois district of Louisiana, and was governed from New Orleans through Fort Chartres, Illinois; Ouiatanon and Fort Miamis were governed from Quebec through Detroit. This line of separation was later fixed in the vicinity of Terre Haute.

9. The Character of the French Settlers.—There was a marked difference between the character of the French colonists of the Mississippi Valley and that of the English on the Atlantic coast. The latter settled in permanent families, cultivated the soil, engaged in trade and industries in fixed communities. The Englishman was jealous of his political rights and insisted upon a large degree of self-government. The French pioneers were chiefly of three classes: the Catholic missionaries, the soldiers and the fur-traders. Their life did not permit of permanent homes. Even when an effort was made to till the soil, it was done in a rude way. The Frenchman, too, was indifferent as to his political rights, submitting to most arbitrary rules and exactions. But the French, in their treatment of the Indians, excelled the English in sagacity. The courage, devotion, and self-sacrifice of the missionaries have scarcely been equalled in history. They united many tribes in friendship to the French. The wily fur-traders and the soldiers also were skilful in the arts of conciliation. The

¹ Just when the post at Vincennes was established is a matter of controversy. The years 1680, 1702, 1716, 1727, and 1735, have been given by different historians as the proper date of its establishment, but that of 1727 seems to be supported by the most reliable evidence.

voyageurs were, peculiarly, a product of the conditions and circumstances of the new world.

The English bluntness and arrogance constantly irritated the Indians. But the practical Briton was gradually drawing to himself their traffic by offering better bargains. The English never assumed to occupy or dispose of their lands without having first purchased them of the natives. On the other hand, the French and the Spanish claimed not only the sovereignty over the land, but also absolute ownership of the soil.¹

10. Rival Claimants for the Mississippi Valley.—The inevitable contest for possession of the Mississippi Valley culminated in the French and Indian War.

The English based their claims upon four things: 1. The voyages of the Cabots (1497, 1498), whose patents reserved to the Crown dominion over such lands as they discovered; 2. Royal charters from 1609 to 1665, which granted territory extending from ocean to ocean; 3. Treaties with the Iroquois and the Miamis; 4. The explorations of British traders in the valleys of the Ohio, Tennessee, and Cumberland Rivers.

The French rested their title upon the following grounds: 1. Verrazano's voyage (1524) along the coast from the mouth of the Savannah to Newfoundland; 2. The discovery and exploration of the St. Lawrence River by Cartier (1534, 1535–1540); 3. The discovery and exploration of the Ohio River by La Salle; 4. The exploration of the Mississippi River by Joliet and Marquette in 1673, Hennepin in 1680, and La Salle in 1682, and the early occupation by actual settlement along its banks and tributaries; 5. The treaty of Ryswick (1697), which gave them jurisdiction over the entire basins of rivers the mouths of which had been occupied by the French; 6. A denial that the

¹ An exception to this custom is found in the case of the French settlers about Vincennes. They based their claims upon the Indian cessions.

Iroquois ever acknowledged their subjection to the English. The contest was to be decided not by the justice of the claims, but by the force of arms.

11. Results of the French and Indian War.—In 1759, Quebec, the bulwark of the province of Canada, fell; in the following year Montreal capitulated, and the French governor, Marquis de Vaudreuil, surrendered all Canada to the English. In this same year, Detroit surrendered without resistance, and in the spring of 1761, Ouiatanon was occupied. Vincennes was not taken at this time, being a part of the Louisiana province and “not included in the capitulation” of Quebec. But by the Treaty of Paris (1763), France surrendered to England all her vast possessions east of the Mississippi River except a small area in Louisiana.

Undoubtedly, the claims of France were the more substantial, and it is equally beyond doubt that the world has gained immeasurably by the transference of this immense area from a nation having Gallic customs and polity to one having English laws, traditions and institutions. Mr. Fiske has said, “The triumph of Wolfe marks the greatest turning-point yet discoverable in modern history.”

II. ENGLISH OCCUPATION.

12. The Last Posts Surrendered.—Though the formal conveyance of this territory occurred on February 10, 1763, actual occupation was delayed several years because of the enmity of the Indians. The natives believed the English would dispossess them of their lands. Under the masterly and efficient leadership of Pontiac was formed a conspiracy to make a final effort to drive out the English. The plot was well-nigh successful. Detroit barely escaped capture and was the only fort held by the English west of Pittsburg. No attempt to seize Vincennes was made, as the French still had possession here. The vigorous policy of the English, the refusal of the French generals

and French governor of Louisiana to lend him aid, and the desertion of some of his allies, convinced the great chieftain of the folly of continuing the struggle. At Ouiatanon, in the spring of 1765, Pontiac declared his willingness to make peace. This declaration was carried out, with the usual ceremonies, at Detroit soon after.

On the tenth day of October, 1765, Captain Sterling formally took possession of Fort Chartres in the name of the English. This was the most important post west of Detroit. But it was not till May 19, 1777, that an officer, bearing a royal commission to take possession, appeared at Vincennes.

13. Proclamations of British Officers.—(I.) Upon the occupation of Fort Chartres, Captain Sterling issued the proclamation of General Gage, the Commander-in-Chief of British forces in America. It was very liberal in its tone. It granted to the French inhabitants "the liberty of the Catholic religion," and the choice of selling their estates and retiring, or of remaining and enjoying the same rights, privileges and security as other subjects. They were only required to take the oath of fidelity and allegiance.

(II.) The happy carelessness of the French on the Wabash was interrupted in 1772 by the announcement of a later proclamation by General Gage. He ordered all settlers along the river to quit that country instantly and retire to other colonies. The leading citizens protested against these arbitrary commands and the British ministry disavowed the policy of Gage. The motive of such an unjust order is to be found in an examination of the land policy of Great Britain after 1763.

14. The Western Land Policy of Great Britain.—Before the French title to the Northwest Territory was extinguished, the British government had insisted that the Sea was the western limit of the colonies, and had encouraged settlements west of the mountains. But when English

possession was assured by treaty, her policy changed. It is evident from reports of the period that Great Britain was jealous of the strength and progress of her colonies. To be debarred from this broad rich territory, to see it remain a wilderness, was extremely mortifying to the colonists who had spent blood and money in its conquest. In spite of royal proclamations, official threats, and military expulsions, hardy pioneers penetrated the new territory.¹

The narrow designs of the home government culminated in the **Quebec Act of 1774**. By this act, Parliament extended the limits of Quebec to the Ohio and Mississippi Rivers on the south and west, restored French law and institutions, abolished trial by jury in civil cases, guaranteed the Catholic clergy their extensive property rights, and assured the people the free exercise of their religion. The object of this legislation was to win the good will of the French *habitants* in case of trouble with the colonies.

III. VIRGINIA OCCUPATION.

15. Virginia's Conquest of the Northwest.—The French settlers in the northwest were not reconciled to the English occupation, in spite of the conciliatory Quebec Act. The inherited enmity of five centuries could not readily be transformed into loyal attachment. But the friendship of the Indians was transferred from the French to the English. In the first year of the Revolution, Indian bands were supplied with arms and incited to fall upon the unprotected settlements west of the Alleghanies. Oftentimes the pioneers were themselves culpable for offering provocation to the Indians.

Colonel George Rogers Clark proposed to Patrick Henry, governor of Virginia, to strike at the heart of the Indian difficulties by capturing the English forts. The Governor

¹ "It has been estimated that from 1765 to 1768, some 30,000 whites settled beyond the mountains."

and Council approved the plan, for they saw, also, that success would give them a diplomatic advantage in the peace negotiations. With difficulty, Clark raised a small force of men, surprised the garrison at Kaskaskia, and possessed the place without opposition (July 5, 1778). He soon despatched a delegation of French to Vincennes. Lieutenant-Governor Abbot and the garrison were absent at Detroit. When matters had been explained to the French settlers there, they at once took the oath of allegiance, garrisoned the town, and hoisted the American flag. But the British recaptured Vincennes, December 15, 1778. The intrepid Clark was not dismayed by this threatened destruction, though cut off from aid, with short supplies and with but a small force of one hundred and seventy men. With unfailing spirits and incomparable courage, his men undertook in the midst of winter, a march of one hundred and sixty miles across inundated plains and swampy prairies. At last they arrived before Vincennes. The tact and boldness of Clark did not fail him here, and on February 25, 1779, Governor Hamilton surrendered. No other single exploit in Northwestern history is comparable with this in daring, in perils overcome, in hardships endured, and in momentous consequences. For when the battles of the Revolution had been fought and when our commissioners were engaged in the diplomatic contest, the strongest argument they could make for the Northwest Territory was that of conquest and actual possession. The great debt the United States owes to Clark's energy, courage, and strategy has been tardily recognized by the American people.

16. Illinois County Created.—In October, 1778, the Legislature of Virginia passed an ordinance for the government of the conquered territory. It provided that the citizens of the commonwealth of Virginia, settled on the western side of the Ohio, should be included in a distinct county, called the Illinois County; that the governor

should appoint a county-lieutenant, who should have large powers; and that in civil matters the people should be governed by the French laws and customs, administered by civil officers "chosen by a majority of citizens in their respective districts." Under this law, the first election ever held in Indiana took place in June, 1779. Though the French settlers were left under their former laws, the years following were years of distress and hardship.

17. Three States Claim Indiana.—While Virginia asserted and partially exercised jurisdiction over the Northwest, her title was not undisputed. Massachusetts, Connecticut and New York also laid claim to large portions of this section. These were based upon their sea to sea charters and upon the treaties with the Indians. In the case of Virginia, her claim was reinforced by that of conquest. In the year 1780, New York and Virginia each asserted title to the entire Indiana district, and that portion north of latitude 41° was also claimed by Connecticut.

IV. UNDER NATIONAL ADMINISTRATION.

18. Cessions of Western Lands.—The whole Western land question was one of extreme difficulty and required great tact and delicate treatment. For nearly four years, Maryland refused to ratify the Articles of Confederation on the ground that the United States should assume jurisdiction over the western lands without regard to the conflicting claims, and lay it out preparatory to forming new States. This delay was preventing the plan of government from going into operation, obstructing the financial policy, and encouraging the enemies of the United States in their hope of internal quarrels and disruption.

New York was the first claimant State to comprehend the significance of the trend of things, and exercised a most laudable generosity. On March 1, 1781, a deed was given to the United States to all her western claims. This same day Maryland ratified the Articles of Confederation.

Virginia ceded, upon certain conditions,¹ her claim to lands northwest of the Ohio, March 1, 1784. Massachusetts followed in 1785, and Connecticut in 1786 with certain reservations. Southern States made their cessions somewhat later. On April 23, 1784, Congress passed an ordinance for the temporary government of the Western Territory. During the years from 1784 to 1787, much confusion prevailed in the Indiana district.

19. Survey of Public Lands.—By an ordinance of 1785, Congress provided for the survey of public lands with a view to selling them to actual settlers. The essential features of the system are still retained.² This ordinance, also, provided for the reservation of the sixteenth section in each township for school purposes. Since 1783, Congress had been petitioned to sell western lands. These requests were more numerous and more urgent after 1785. That of the Ohio Company of Associates was especially pressing and deserving. The chance of reducing the public debt and the prospect of immediate settlement of the Northwest, hastened the enactment of a system of government adequate to the conditions.

20. The Ordinance of 1787.—For three years Congress had been wrestling with the problem of the government of its newly acquired territory. The matter had been in the hands of committees, which had reported amendments to the Ordinance of 1784. But no modifications could be agreed upon which would make the scheme of government really effective. On July 13, 1787, this ordinance was at last passed. It provided for the conveyance of the estates of persons dying intestate, it prescribed the form of gov-

¹ One of these conditions was that 150,000 acres should be granted to Colonel George Rogers Clark, and to the officers and soldiers of his regiment who conquered the Northwest Territory. This tract was later laid off along the Ohio in what is now Clark County.

² See Appendix, and THORPE'S *The Government of the United States*, p. 127.

ernment, it guaranteed civil and personal rights, and religious and industrial freedom.

(a) *The Form of Government Established*.—(I.) In the *first stage*, the management was almost absolutely in the hands of the governor and judges, who were appointed by Congress for three years. They had power to adopt and publish in the district such civil and criminal laws of the original States as seemed best adapted to the circumstances, which laws were to be in force unless disapproved by Congress. The governor was commander-in-chief of the militia, and was empowered to appoint, in each county or township, magistrates and other civil officers necessary to preserve peace and order.

(II.) In the *second stage*, the people exercised more power. Upon attaining the number of five thousand males, a territorial government might be organized. It was to consist of a governor, a legislative council and a house of representatives. Authority to make all laws was to be vested in the house, council, and governor, who had an absolute veto. The governor, also, had arbitrary power over the sessions of the General Assembly, having the right to convene, prorogue and dissolve it. The council and house, in joint session, had the authority to elect a delegate to Congress, with the right to participate in the debate but not to vote. After repeated requests, the suffrage was extended and the congressional delegate was elected by a popular vote.

(b) "*The Compact*."—But the part of the Ordinance which has given it an immortal fame and a rank among the fundamental documents of our country is that designated as the "articles of compact between the original States and the people and States in the said territory," which was to "forever remain unalterable unless by common consent." It guaranteed freedom of "worship and of religious sentiments," the right of trial by jury, "benefit of the writ of *habeas corpus*," representative legislation,

benefit of common law in judicial proceedings and it avowed the sanctity of contracts. "Religion, morality and knowledge being necessary to good government and the happiness of mankind," schools and the means of education were to be forever encouraged. This was the beginning of that liberal educational policy which has in a large degree contributed to the intelligence, morality and prosperity of the Northwest. The relation of the Territory and new States to the National Government and to the other States and citizens thereof, is defined. The number of new States to be formed, with their boundaries and conditions of admission among the States, was prescribed. But most important of all was the last article, which declared: "There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crime whereof the party shall have been duly convicted." All statesmen and students of American political history have concurred in assigning this clause as the dominant influence during the formative period, which secured freedom in the Northwest Territory, and determined the result of the Civil War. Mr. Webster has said of it: "I doubt whether one single law of any law-giver, ancient or modern, has produced effects of more distinct, marked, and lasting character than the Ordinance of 1787."

21. First Stage of Government.—Major-General Arthur St. Clair was appointed governor October 5, 1787. He arrived at Marietta¹ in July of the following year, and at once organized the government. The governor and judges in their legislative capacity adopted and published several laws. Furthermore, they exceeded their authority and enacted statutes, justifying their action on the ground that there were no laws adapted to the circumstances. These laws were afterward re-enacted by the territorial legislature in 1799.

¹ Founded April 7, 1788.

There was delay in the organization of counties due to the hostility of the Indians. The first laws were not enforced beyond the Scioto River. Winthrop Sargent, secretary of the Territory, and acting-governor in the

MAP NO. I.



MAP OF INDIANA TERRITORY, 1800 AND 1802.

West, on June 20, 1790, organized Knox County. It included all the country between the Big Miami and a line drawn from Fort Massac on the Ohio to the mouth of Mackinaw Creek in Tazewell County, Ills., stretching

from the Ohio to the Great Lakes. This was really the first effective civil government at Vincennes since 1779.

22. Second Stage.—It was ascertained in 1798 that the Northwest Territory contained more than five thousand free males, and an election for members of a general assembly was called. The legislative assembly convened at Cincinnati in September, 1799, and on October 3d elected William Henry Harrison delegate to Congress. At this first session, the legislature passed forty-eight acts, eleven of which the governor vetoed. These laws were similar in their scope and tenor to the laws of the States.

Congress, by the act of May 7, 1800, divided the Northwest Territory. All that part lying east of a line drawn from the mouth of the Kentucky River to Fort Recovery,¹ thence north to the national boundary, was constituted the Northwest Territory. All lying west of this line was the Indiana Territory.² It was provided that whenever the eastern territory became a State, Indiana should extend to a line drawn due north from the mouth of the Miami.³ The government provided by the Ordinance of 1787³ was extended over Indiana Territory. "Saint Vincennes" was made the capital.

V. INDIANA TERRITORY.

23. The First Stage.—The government of Indiana Territory began July 4, 1800. William Henry Harrison was the first governor and served until 1812. John Gibson was secretary and acting-governor during the absence of Governor Harrison. The first laws published by the In-

¹ The "Greenville Line."

² See heavy black line in Map No. I.

³ When, on April 30, 1802, Ohio was authorized to form a State government, all the territory west of a line drawn due north from the mouth of the Miami and intersecting one drawn due east from the extremity of Lake Michigan and north of this said line, was included in Indiana Territory. (See dotted line in Map No. I.)

diana court and governor treated of the courts, fees, ferries, and county levies.

The population of the Territory was 5641. The number residing in what is now Indiana has been estimated at

MAP NO. II.



MAP OF INDIANA TERRITORY, 1805, 1809 AND 1816.

2500. The slaves in Indiana Territory in 1800 have been judged at about 175, twenty-eight of whom were around Vincennes. In all parts of the Territory, except Clark's Grant, the population was largely French, although the Americans seem to have had the dominating influence.

An election was held on September 11, to obtain an expression of opinion on the question of passing to the second stage. Out of a total vote of 400, those favoring the second stage had a majority of 138. On December 5, 1804, Governor Harrison announced the result of the election, declared that Indiana Territory had passed into the second grade and ordered an election for January 3, 1805.

24. The Second Stage.—In accordance with this order the election was held, and nine members met on February 1, 1805, at Vincennes to begin the government under the new system. The House selected the names of the ten men from whom the president was to name the five councillors. President Jefferson delegated that power to Governor Harrison. The legislature as organized in July, 1805, was composed of seven representatives and five councillors. Benjamin Parke was elected the first delegate of Indiana Territory, which position he occupied till 1808.

In the meantime,¹ Congress had erected Wayne County into a separate government under the name of Michigan Territory, to take effect after June 30, 1805. It included all that district lying north of a line drawn east from the southerly extreme of Lake Michigan to Lake Erie and east of a line drawn from said southerly extreme through the middle of the lake to its northern extremity and thence due north to the national boundary.²

After several petitions requesting separation had been received from the Illinois people, Congress authorized the division of the Territory, to take effect March 1, 1809.³

¹ January 11, 1805.

² For boundaries of Indiana Territory see heavy black line in Map No. II.

³ The population was estimated at this time at 17,000 in Indiana and 11,000 in Illinois. By the act of division the western boundary of Indiana was defined as "the Wabash River and a direct line drawn from the said Wabash River and Post Vincennes due north" to the then northern boundary. (See dotted line in Map No. II.)

25. The Battle of Tippecanoe.—The continued sale of lands by the Indians alarmed some of the more aggressive chiefs. Under the leadership of Tecumseh and his brother the Prophet, two Shawanee warriors, a confederacy was organized among certain tribes to resist further sales, to punish chiefs conveying lands, and to prevent the survey and settlement of lands already ceded. Tecumseh's theory was, that no tribe had the right to dispose of its lands without the consent of the other tribes. The hostile design of the confederates was anticipated by Governor Harrison, who marched into the Indian country with a strong force. His purpose was to induce the tribes to return to their own lands and villages. But before a conference could be held, Harrison was attacked about daybreak on November 7, 1811, while encamped near the Tippecanoe River. The soldiers and militia, who had slept on their arms, endured the terrific assault bravely and the Indians were compelled to retire. The confederacy was broken up and the Prophet's town destroyed. By the Treaty of Greenville, July 22, 1814, peace and friendship were again established.

26. A Change of Governors.—On September 24, 1812, Governor Harrison received news of his appointment to the command of the Army of the Northwest, with the rank of Brigadier-General. From that time the Secretary of the Territory, John Gibson, was acting-governor until the arrival of Governor Posey (May 25, 1813). The influence of Governor Harrison, with the exception of his advocacy of slavery, was for the advancement of the Territory. His management of Indian affairs was just and humane. Again and again he recommended to the legislature liberal provisions for education—from the common school to the university. In 1806, Vincennes University was incorporated, and he was one of the trustees and served till his withdrawal from the Territory.

The legislature of 1813 had ordered the capital of the

Territory to be located at Corydon "from and after the first day of May, 1813." At the first session held there in December, 1813, the two houses addressed replies to the governor's message. A law prohibiting dueling was passed at this session.

In 1814, the legislature granted charters to the first banks—The Farmers' and Mechanics' Bank at Madison and the Bank of Vincennes. The latter, in 1817, became the State Bank of Indiana and adopted the former as a branch. In 1821 the State Bank was closed by order of the court.

27. The First Constitutional Convention.—In 1816, Congress passed an enabling act authorizing an election of delegates who were to determine whether or not a State government should be formed. If statehood were desired, they had the power to proceed at once to the formation of a Constitution or to order an election of delegates who should perform that duty. The convention met on June 10. Of the forty-three members, but few later attained any pre-eminence in politics or the professions. The majority of them were plain, common-sense pioneers who had a strong belief in the rights of men and a clear perception of justice. The convention completed its work June 29 and adjourned the same day.

28. The Constitution.—The Constitution, though not so democratic, did not differ materially from that now in force. It contained a bill of rights, and prescribed a republican form of government with three departments,—legislative, executive, and judicial. The General Assembly met annually. The term of senators was three years; that of representatives, one year. The governor's term was three years. He had the usual executive powers. He, also, appointed judges of the Supreme Court, to serve for seven years. The General Assembly elected the other State officers (secretary, auditor and treasurer of State). All white male citizens who had resided within the State

one year were given the right of suffrage. Slavery was forever prohibited. Every twelve years the people had an opportunity to vote upon the question of calling a general convention to amend the Constitution.

29. Slavery in Indiana.—When the Ordinance of 1787 was passed, slavery already existed in Indiana. The interpretation placed upon the Ordinance was that it prohibited the further importation of slaves, but did not free those then held in the Territory. The settlers, most of whom were from the Southern States, were eager for its further introduction. From 1796 to 1807, six petitions were presented to Congress asking for an abrogation or modification of the sixth article of the "Compact" which forbade slavery. These petitions were denied. But in the face of this opposition, the number of slaves had increased from twenty-eight in 1800 to two hundred and thirty-seven in 1810, under a law permitting slavery by indenture.¹ The sentiment against slavery gradually increased in the Territory. In the Constitutional Convention of 1816, the friends of freedom were overwhelmingly in the majority and slavery was forever prohibited. But so difficult was it to uproot this institution of evil that, in spite of constitutional prohibition, a few slaves were held in the State for several years afterward.

30. Beginning of State Government.—The first general election under the Constitution was held on the first Monday of August, 1816, and Jonathan Jennings was chosen governor. The first General Assembly² met at Corydon, November 4, 1816. Three days later the gov-

¹ Under this law, an immigrant bringing slaves into the Territory might appear before the clerk of the court and determine and agree with the slaves the term of years they would serve him. If the slaves refused to enter into such a contract, the owner might carry them into another State. The law was clearly a violation of the Ordinance.

² The legislature consisted of ten senators and twenty-nine representatives.

ernor and the lieutenant-governor took the oath of office in their presence. The next day the legislature elected James Noble and Waller Taylor United States senators, and later chose the secretary, the auditor and the treasurer of State.

On December 11, 1816, the President signed the resolution of Congress which formally admitted Indiana into the sisterhood of States.¹ The growth of the State was rapid. The population more than doubled in five years.²

The task of inaugurating a new government among a frontier people, poor in purse, scattered far and wide, and devoid of means of communication and transportation, is arduous and exacting. Our first governor and legislators met the difficulties with tact, wisdom, intelligence and patriotism. Many obstacles prevented the establishment of an adequate system of public instruction. But several academies and library associations were incorporated within a few years.

31. Removal of the Capital.—In 1820, commissioners selected the present seat of government, which is within a few miles of the geographical centre of the State. In that year there was no white colony within fifty miles of the place. In 1825 the capital was removed to Indianapolis; at that time it required ten days to go one hundred and twenty-five miles.

32. State Enterprises.—(1) The most worthy venture was the Indiana State Bank. The State owned half of the stock and participated in its management. Its career was honorable and successful, bringing large profits to the State and to private stockholders. The charter extended from 1834 to January 1, 1857. Manufactures increased, private corporations were organized, and prosperity seemed assured. But with the panic of 1837 came a serious reac-

¹ For the boundaries of Indiana, as prescribed by the enabling act and accepted by the State, see Article XIV. of the Constitution. (See Map No. II.)

² The population was 63,897 in 1815; 147,178 in 1820.

tion. And the collapse of the improvement schemes brought disaster and misery to the people.

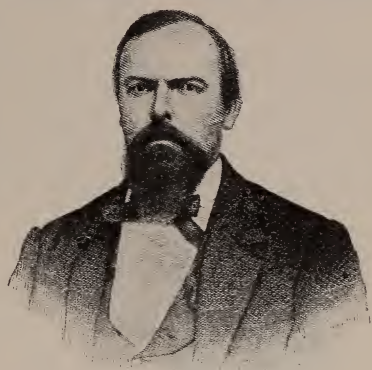
(2) The successful prosecution of canal enterprises in the Eastern States encouraged the advocates of State highways and waterways in the West. The State had received cessions of land from the Indians and extensive grants from the National domain, and in 1836 it authorized the expenditure of more than \$10,000,000 for the building of canals, roads and railroads. Many of the projects were wholly worthless; mistakes were made in the organization and management of others; the cost exceeded the estimates; the proceeds from the canal lands did not meet expectations; the panic of 1837 made it impossible to borrow money, so that the State was almost bankrupted and its credit well-nigh ruined. It was found necessary to transfer some of the public works to private corporations and wholly to abandon others. The total loss to the State was about \$8,000,000.

33. A New Constitution.—On January 18, 1850, the legislature authorized the assembling of a constitutional convention, which was to be composed of one hundred and fifty delegates. It met on October 7, and after four months of assiduous deliberation it completed its task and adjourned February 10, 1851. The Constitution was ratified by the people August 4. The vote on the Constitution was 109,319 for, and 26,755 against, its adoption. The vote on the thirteenth article, which provided for the exclusion and colonization of negroes and mulattoes, was taken separately and resulted in 109,976 for and 21,066 against. It took effect November 1, 1851, and the first general election under it was held in 1852.

34. Indiana in the Civil War.—In response to the President's call for 75,000 troops and Governor Morton's proclamation for 6000 volunteers—Indiana's quota—nearly 20,000 men offered their services. The difficulty was not to get men enough but to get few enough. In all, Indiana

furnished over 200,000 men for the suppression of the Rebellion, and they were found on almost every battle-field of the war. Individuals, corporations, towns and cities contributed money. The

State not only furnished men, but supplied them with food, clothing and munitions until the General Government could meet the demands made upon it. Not satisfied with putting men into the field, the people established a relief corps and supplied the fighting soldiers with many comforts and conveniences.



OLIVER PERRY MORTON.

They made provision for the needy families of absent men, and cared for the children of those who perished.

In the summer of 1863, the State rose as one man to repel the bold invasion of John Morgan. More than 60,000 men offered their services within two days.

All in all, Indiana's record during the war is one that reflects great honor upon her name. And it is fitting that the finest soldiers' monument in the world should commemorate the loyalty, the heroism, the suffering and fortitude of her citizen soldiery, who were not justly rewarded by merited promotions in the army.

35. Indiana in National Politics.—While Indiana's position in National affairs has not been so conspicuous as that of some of the older States, she has played her part well and honorably.

Three of her Congressmen—John W. Davis, Schuyler Colfax and Michael C. Kerr—have served as Speaker of the House of Representatives.

She has had representation in the Presidents' Cabinets as follows: Caleb B. Smith and John P. Usher as Secre-

taries of the Interior, Hugh McCulloch as Secretary of the Treasury under three Presidents, James N. Tyner and Walter Q. Gresham as Postmasters-General, Richard W. Thompson as Secretary of the Navy, William H. H. Miller as Attorney-General, and John W. Foster and Walter Q. Gresham as Secretaries of State.

The importance of Indiana in presidential elections is shown by the fact that from 1868 to 1892 a candidate from Indiana was found on one ticket or the other. In 1868,



SCHUYLER COLFAX.



THOMAS A. HENDRICKS.

Schuyler Colfax was elected Vice-President on the Republican ticket. In 1884, Thomas A. Hendricks, the Democratic candidate for the Vice-Presidency, was elected but did not live to serve out his term. In 1888, Hon. Benjamin Harrison was elected President and as the Chief Executive of the Nation exhibited statesmanship of the highest order. Senator Charles W. Fairbanks was elected Vice-President in 1904.

36. Education.—By an act of Congress (March 26, 1804) the sale of certain public lands was provided for, “with the exception of the section numbered sixteen, which shall be reserved in each township for the support of the schools within the same; also, of an entire township . . . for the use of a seminary of learning.” By the enabling act of April 19, 1816, this grant was re-affirmed

and one entire township in addition was reserved for the use of a seminary. President Monroe designated what is now the civil township of Perry, in the county of Monroe, to be devoted to this purpose.

In pursuance of the act of 1804, the first General Assembly of the Territory incorporated Vincennes University, November 29, 1806. The trustees were authorized to raise \$20,000 by lottery. The school was opened for instruction in 1810. On January 20, 1820, the State Seminary was established at Bloomington. Later, the assistance heretofore given the Vincennes University was diverted to the State Seminary. January 24, 1828, the Seminary was converted into the Indiana College by act of the General Assembly. The institution was changed in 1838 to the Indiana University.

In 1869, Purdue University, the agricultural and mechanical college of Indiana, was located at LaFayette. The institution was opened to students in 1874. It is maintained at the expense of the State.

The Indiana State Normal School was established in 1865, the object of which is "the preparation of teachers for teaching in the common schools of Indiana."

Besides these State schools there are some twelve other institutions—colleges and universities—which are doing valuable and efficient work.

Thus, the State school system began with higher education and not with the common schools. Under the first Constitution "no efficient school law was ever passed." Several academies and seminaries for secondary instruction were established; but these were supported in part by tuition fees. This was a period of preparation and experiment. Difficulties and impediments seemed to make fruitless every effort to establish a general system of education. In 1840, one-seventh of the adult population were unable to read. Of the children of school age, not 50,000—less than one-fifth—were attending primary and com-

mon schools.¹ In 1850, Indiana stood twenty-third in the list of States in regard to popular education, with only three slave States below her. Under the Constitution of 1851, the progress of the common schools has been rapid and substantial. The law of 1852 contained the essence of the present system. It has been modified and strengthened by subsequent amendments. The fundamental principle is that the educational system must be general and uniform, dependent for its support partially upon taxes derived from the local communities and partially upon revenues from the State.

Gradually the cause of the common schools won its way and the indifference and obstinacy of its opponents were overcome. To-day Indiana ranks among the first States in regard to her educational system.

37. Conclusion.—It is impossible within the scope of this book to depict adequately, even the political history of Indiana, not to speak of the social life and industrial development. In the appendix will be found statistics illustrating her present condition. But they fail to convey a clear conception of the marvellous growth within the period of ninety years. The population has increased from 70,000 in 1816² to nearly 2,700,000 in 1905. The number of acres under improvement has risen from 1,750,000 in 1817³ to over 17,000,000 in 1905. The annual products of farms in 1816 were scarcely sufficient to furnish sustenance to the settlers. Now they are worth more than \$200,000,000. The value of manufactured products has advanced from \$191,000⁴ in 1810 to about \$400,000,000 in 1905. Facilities of transportation have progressed from the flat boat, the pack horse following Indian trails and the lumber wagon trudging over roads almost impassable, to comfortable coaches and powerful and magnificent

¹ *Indiana Gazetteer*, 1850, p. 44. ² DILLON's *History of Indiana*, p. 563.

³ *Indiana Gazetteer*, 1850, p. 115. ⁴ DILLON's *History of Indiana*, p. 438.

trains gliding over the seven thousand miles of railroads and fourteen hundred miles of electric roads. The enrollment of schools has risen from almost nothing to six hundred thousand in 1903, with an expenditure of \$9,000,000 annually. Religious worship, instead of being conducted under the shelter of trees, or in barns or log houses, is now performed in six thousand churches valued at more than \$18,000,000. The total wealth in 1890, according to the United States Census for that year, aggregated \$2,095,176,626. Advancement in other lines has kept pace with this stupendous material development. No longer does any stigma attach to the name of Hoosier.

LEADING EVENTS IN THE HISTORY OF INDIANA.

- 1669-70. La Salle's exploration of the Ohio River.
- 1679. La Salle's exploration in Northern Indiana.
- 1695. Kaskaskia settled.
- 1720. Post established at Ouiatanon.
- 1727. Post established at Vincennes.
- 1763. The Treaty of Paris.
- 1779. Vincennes surrendered to Col. George R. Clark.
- 1787. Ordinance of 1787.
- 1800. Indiana Territory organized with the capital at Vincennes.
- 1800-10. Slavery by indenture permitted.
- 1804. "The Western Sun," the first newspaper in the Territory, established at Vincennes.
- 1804. Indiana Territory passed to the second stage.
- 1805. Michigan Territory separated from Indiana Territory.
- 1806. Vincennes University founded.
- 1809. Illinois Territory separated from Indiana Territory.
- 1811. Battle of Tippecanoe.
- 1813. Removal of Capital from Vincennes to Corydon.
- 1816. First State Constitution framed and adopted.
Indiana admitted to the Union.
- 1820. Bloomington Seminary (Indiana University) founded.
- 1825. Removal of Capital from Corydon to Indianapolis.
- 1834. Indiana State Bank chartered.
- 1835. The Wabash and Erie Canal opened.
- 1851. New State Constitution adopted.
- 1889. Australian Ballot Law enacted.



BENJAMIN HARRISON.

CHAPTER II.

THE STATE GOVERNMENT.



I. INTRODUCTION.

38. The Preamble to the State Constitution is the enacting clause which declares for what purpose the sovereign people have ordained the Constitution.

39. The Bill of Rights¹ is the first article of the Constitution. It contains a statement of the fundamental principles which underlie the system of government and a declaration of the civil and political rights which are inviolably reserved to the people. Most of these are found

¹ See the Constitution. Each section of the bill of rights should be carefully studied by the class. Frequent reference to the Constitution should be insisted upon.

also in the Constitution of the United States. They were wrung from unwilling kings by our own English ancestors during a contest which lasted more than five hundred years.

40. Citizenship.—"Citizens are the members of the political community to which they belong. They are the people who compose the community and who have established, or submitted themselves to, the dominion of a government for the promotion of their general welfare and the protection of their individual as well as their collective rights."¹ The Constitution of the United States declares that "all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside." Thus all the people—men, women and children—living in Indiana, born or naturalized in the United States and subject to the jurisdiction thereof, have a dual citizenship: they owe allegiance and obedience to the State and to the Nation; and they are entitled to protection under each of these governments.²

41. Electors.—Those citizens who participate in government by voting are called electors. In Indiana not all citizens are electors, for women and children cannot vote; and not all electors are citizens, for by the Constitution suffrage has been given to persons of foreign birth who have not been fully naturalized.³ The qualifications of electors as to age, sex and residence are prescribed in the Constitution of the State.⁴ As provided in 1851, this right was restricted in Indiana to whites only. But the Four-

¹ Supreme Court decision in *U. S. vs. Cruikshank*, 92 U. S. 542.

² Indians living in tribal relations, though born in the United States, are not citizens, for they are not "subject to the jurisdiction" of the laws of the United States but to the laws and customs of their respective tribes. All the Indians residing in this State are citizens, for they have severed their tribal relations.

³ See *Art. II. Sect. 2.*

⁴ See *Art. II. Sects. 2, 3, 4, and 8.*

teenth and Fifteenth Amendments of the Constitution of the United States superseded this article, and in 1881 it was repealed. The right to vote in local or State elections gives one the right to vote for congressmen and for presidential electors.¹

42. Distribution of Powers.—The Constitution of the United States guarantees to every State a republican form of government; that is, a government in which the affairs are administered by representatives chosen by the people. By the third article of the State Constitution, the powers are divided into three separate departments: the legislative, the executive, and the judicial. It is the prevalent theory that these branches should be as nearly independent as possible, and thus serve as checks upon one another. It is, therefore, provided that no officer in one department may exercise any of the functions of an officer in another department, except in the few cases provided for in the Constitution itself.²

II. THE LEGISLATIVE DEPARTMENT.

43. The Legislative Authority; Where Vested.—That branch of government which has the power to make the laws is now generally conceded to be the most important. It represents more perfectly than any other department the views of every section of the State, and is elected to express the will of the people. The legislative authority is vested in a General Assembly consisting of a Senate and a House of Representatives.³

44. The Senate.—Every six years an enumeration of all the male inhabitants over twenty-one years of age is made. At the first session of the General Assembly following this enumeration, the number of senators (not exceeding fifty) is fixed by law and apportioned among

¹ The manner of conducting elections is explained in Chapter V.

² See *Art. III.*

³ See *Art. IV. Sect. 1.*

the several districts according to the number of males as above determined.¹ The senators, now fifty, are chosen by the electors of the respective districts² for a term of four years. The Senate is divided into two classes, so that one-half is elected biennially.³ Each legislature is sure, therefore, to have some experienced men in its service.

A senator must be a citizen of the United States, an inhabitant of this State for two years next preceding his election, an inhabitant of his district for one year next preceding his election, and at least twenty-five years old.⁴ The only exclusive power conferred on the Senate by the Constitution is to try impeachments which have been made by the House.

45. The House of Representatives.—The number of representatives is determined in the same manner and at the same time as that of the senators.¹ At present there are one hundred representatives.² They are chosen by the electors of their respective districts, for a term of two years. Their qualifications are the same as those of senators, except that the age limit is twenty-one years.⁴ The House has the power to impeach any State officer.⁵

46. Sessions.⁶—The regular sessions of the legislature are held at the capital in the odd-numbered years. They begin on the Thursday following the first Monday of January⁷ and may continue sixty-one days. Special sessions

¹ *Art. IV. Sects. 4, 5, 6.* No county for senatorial apportionment may be divided, and if a district contains more than one county, the counties must be contiguous. *Revised Statutes*, sects. 4956–8.

² See *Art. IV. Sect. 2.*

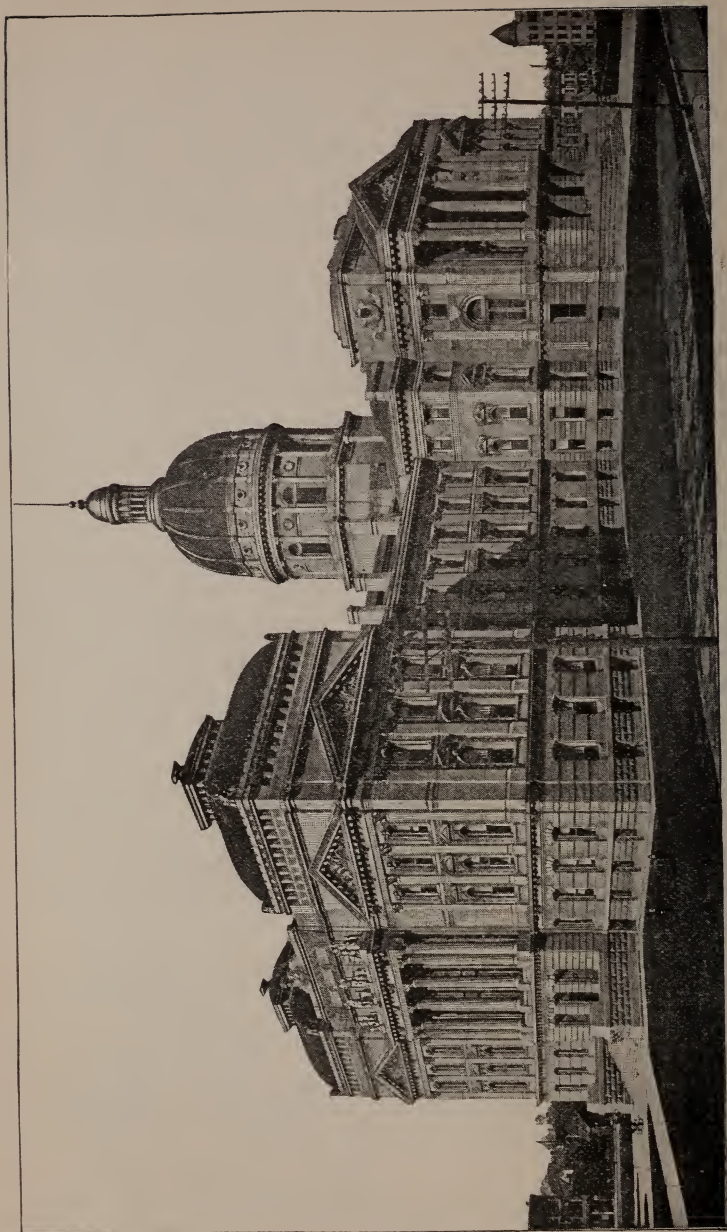
³ See *Art. IV. Sect. 3.*

⁴ See *Art. IV. Sect. 7.* No person holding a lucrative office or appointment under the United States or under this State is eligible to a seat in the General Assembly. See *Art. II. Sect. 9.*

⁵ See *Art. VI. Sect. 7.*

⁶ See *Art. IV. Sects. 9 and 29.*

⁷ A different day and place may be established by law. The daily sessions begin at 9 A.M. and at 2 P.M.



THE CAPITOL AT INDIANAPOLIS.

may be called at any time by the governor, if the public welfare require it. They cannot exceed forty days in length. The sessions of each house and of the committees of the whole must be open, unless, in the opinion of either house, secrecy may be required.¹

Two-thirds of each house is required to constitute a quorum for the transaction of business.²

Each house determines its own adjournment with the limitation that neither house may, without the consent of the other, adjourn for more than three days, nor to any other place.³

47. Compensation.—The Constitution provides that the compensation of members shall be fixed by law,⁴ but it forbids any increase taking effect during the session at which it may be made. The present compensation is six dollars per day, and five dollars for every twenty-five miles traveled in going to and from the session.⁵

48. Privileges.—During the sessions of the Assembly and in going to and from the same, all members are privileged from arrest in all cases except treason, felony, and breach of the peace. They are not subject to civil process during the session, nor during the fifteen days just preceding. They cannot be questioned in any other place for speeches in the house.⁶ If it were otherwise there could not be freedom of debate. Any member may protest against the passage of any bill or resolution and have his protest entered on the journal.⁷

49. Ineligibility.—No member of either house is eligible during his term to any office the election to which is vested in the General Assembly; nor may he be appointed to any civil office of profit which has been created during

¹ See *Art. IV. Sect. 13.*

² See *Art. IV. Sect. 11.*

³ See *Art. IV. Sect. 10.*

⁴ See *Art. IV. Sect. 29.*

⁵ The amount of mileage due each member is determined by a committee appointed for that purpose.

⁶ See *Art. IV. Sect. 8.*

⁷ See *Art. IV. Sect. 26.*

his term, except to an office elective by the people.¹ This is to guard against collusion and corruption.

50. Punishment.—Either house may punish its members for disorderly conduct, and with the concurrence of two-thirds, may expel a member. Either house, during its session, may punish by imprisonment not exceeding twenty-four hours, any person not a member, for disrespect by disorderly or contemptuous behaviour in its presence.² Order is necessary for calm deliberation and judgment.

51. Organization.³—In order to secure the independence of each house it is provided that each shall elect its own officers⁴ (except the president of the Senate⁵); judge the elections, qualifications, and returns of its own members; and determine its rules of procedure and adjournment. (See exception, § 46.)

52. Journals.⁶—Each house is required to keep and publish a journal of its proceedings. On any question the yeas and nays must be entered on the journal upon the proper request. Each house has a committee (the only one authorized by law) on the correction of the journal, whose duty it is to inspect the same and report any errors. The journal after approval is signed by the presiding officer and deposited with the secretary of State, and later printed.

53. Committees.—Legislative business is hastened by distributing the subjects of legislation among committees. The Constitution and statutes make no provision for the

¹ See *Art. IV. Sect. 30.*

² See *Art. IV. Sects. 14 and 15.*

³ See *Art. IV. Sect. 10.*

⁴ The officers are, besides the president of the Senate and the speaker, the secretaries, clerks, door-keepers, postmasters, paper-folders, pages, messengers, and sweepers.

⁵ Whenever the lieutenant-governor acts as governor or is absent from the Senate, that body elects one of its own members as president. See *Art. V. Sect. 11.*

⁶ See *Art. IV. Sect. 12.*

appointment of these committees. Each house determines by resolution the number and size of its committees.¹ They are appointed in the House by the speaker, in the Senate by the president.² It is seen, therefore, that the presiding officers have great influence over the course of legislation, since the recommendations of the committees are generally accepted as final. Without such a system it would be impossible for the house to give careful and thoughtful consideration to all matters which might be proposed for legislation. Yet there are some serious disadvantages in this method. It prevents unity and harmony in legislation, affords greater opportunity for corruption and lessens responsibility.

54. Law-Making.³—The Constitution provides that no law shall be enacted except by bill. A bill⁴ is the draft of a proposed law and must begin with the following words: "Be it enacted by the General Assembly of the State of Indiana."⁵ All bills for raising revenue must originate in the House of Representatives; all others may originate in either house and either house may amend any bill of the other house.⁶ Each bill is read on three days unless the house⁷ dispenses with the first and second read-

¹ At the sixtieth session of the General Assembly, the Senate had thirty-seven standing and three joint committees; the House of Representatives had forty-four standing, one select, and three joint committees. Most of the committees of the House of Representatives consist of nine members, those of the Senate of seven.

² In the Senate they are sometimes elected, when the lieutenant-governor differs in politics from the majority of the Senate.

³ See rules of House and of Senate, 1897.

⁴ A resolution is a law which affects only the house which enacts it.

A concurrent resolution binds the two houses in matters relating to both of them.

A joint resolution passes through the same steps as a bill. It is used in expressing opinions of the legislature, in appointing important committees, and in proposing amendments to the Constitution.

⁵ See *Art. IV. Sect. 1.*

⁶ See *Art. IV. Sect. 17.*

⁷ In tracing the history of a bill, we have assumed that it was intro-

ings by a two-thirds vote. The first reading is for information. The bill may be then and there rejected; but if it is not rejected (and bills seldom are rejected on the first reading), it is referred to a standing or select committee or to a committee of the whole house. If it is deemed of sufficient importance it may be printed.¹

The committee in charge of a bill may kill it by delaying to report until there is not sufficient time for consideration: it may report to the house with or without amendment, or with or without recommendation. The bill then goes to the speaker's desk to await its turn; when it is reached in the order of business, it is read the second time. It is then ready for amendment, re-commitment, or engrossment. It is at this point that the chief discussion on the merits of the bill occurs. A bill may be rejected here by a motion to strike out the enacting clause. If it is neither amended, re-committed, nor rejected, it is ordered to be engrossed "in a fair round hand." After engrossment it is presented to the committee on engrossed bills, whose "imperative duty" it is to compare the engrossed with the original bill and ascertain whether it has in all respects been accurately and correctly engrossed. After errors are corrected, it is taken up in the course of business and ordered to the third reading. The question is then "Shall the bill pass?" The vote is taken by yeas and nays and a majority of all the members elected is necessary to pass the bill.² Then the question is "Shall the title of the bill stand as the title of the act?" It is generally so ordered without a vote, if no objection is raised. The clerk of the House then informs the Senate of the passage of the bill. The engrossed copy, signed by the clerk, is thereupon

duced in the House of Representatives. The procedure would be similar if the introduction were in the Senate.

¹ In the Senate, all bills reported favorably and all bills having majority and minority reports are printed.

² See *Art. IV. Sects. 18 and 25.*

transmitted to the Senate and passes through the same routine, except that a bill engrossed in one house is not engrossed in the other. If it is modified, the amendment is engrossed and is returned with the bill to the house in which it originated. If the House concurs, the bill is ready for enrollment. If it non-concurs, each house appoints two members to a joint conference committee. If the houses after the report of this committee are unable to agree, the bill is lost. If the bill is finally agreed to by both houses, it is enrolled on paper and indorsed on the back by the clerk of the house in which it originated. The enrolled bill is then examined by at least two members of the joint committee on enrolled bills, who compare it with the engrossed bill and correct any errors. If duly enrolled, the bill is signed, first by the speaker, then by the president of the Senate, and it is then presented by the joint committee on enrolled bills to the governor for his consideration. The committee report their action to their respective houses, which report is entered on the journal of each house. If the governor signs the enrolled bill, he notifies each house of his action and sends the bill to the secretary of State. If the governor vetoes the bill, he returns it unsigned with his objections to the house in which it originated, which house enters the objections at large upon its journal and proceeds to reconsider the bill. If a majority of the members elected pass it, they send it with the governor's objections to the other house for consideration; and if approved there by a majority of the members elected, it becomes a law, and is deposited with the secretary of State.¹ If the governor retains the bill three days (excepting Sundays) it becomes a law, unless the general adjournment prevents its return. In case of adjournment it becomes a law, unless the governor files his objections with the secretary of State within five days (to be laid

¹ See *Art. V. Sect. 14.*

before the legislature at the next session). No bill shall be presented to the governor within two days of the final adjournment.¹

No law takes effect until published and circulated in the several counties by authority, except in case of emergency, when it takes effect on its passage.²

55. Restrictions on Law-Making.—The legislature has authority to make laws on all subjects except where prohibited and restricted by the laws, treaties and Constitution of the United States and by the Constitution of Indiana.³ Besides the restraints set forth in the bill of rights, the Constitution has imposed several other restrictions upon the legislature. As to methods, it prescribes that every act shall embrace but one subject and matters properly connected therewith, which subject must be expressed in the title. The purpose of this is to prevent the enactment of undesirable bills which might be passed under a misleading title, or by incorporation into a worthy measure. The use of technical terms must be avoided as far as possible, in order that laws may be clear even to the simplest.⁴

The laws must be general in all cases where such laws are applicable. This is to prevent favoritism. To enforce this principle, the Constitution specifically forbids local or special laws relating to the following subjects: the punishment of crimes and misdemeanors; changing venue; di-

¹ Sometimes, if the governor favors an important bill, he waives this right.

² See *Art. IV. Sect. 28*. Clerks of circuit courts are required to certify to the governor the day of receiving the laws of any session. As soon as the certificates from all the counties are received by the governor, he issues and publishes his proclamation announcing the date of the latest filing, which is the date of its taking effect. (*Revised Statutes*, sects. 238, 239.)

³ See *Art. IV. Sect. 16*.

⁴ See *Art. IV. Sects. 19-21*. For other restrictions see § 54, on Law-making.

voices; changing names of persons; regulating county and township business; assessment and collection of taxes; fees and salaries; interest; the opening and conducting of elections; and others of less importance.¹

No money may be drawn from the treasury but in pursuance of appropriations made by law.² The pay of judges may not be diminished during their term of office.

No State debt may be created except to meet casual deficits in the revenue; to pay the interest on the State debt; to repel invasion; suppress insurrection; or to provide for the public defense.³

No law may authorize the payment of the canal debt, the settlement of which was provided for by legislation in 1846 and 1847.⁴

56. Taxation and Revenue.—The most responsible duty resting upon the General Assembly is to provide for the raising and disbursement of the public revenue.⁵ The principal expenditures are for the offices, boards, bureaus and departments of the State; the judiciary; the benevolent, the penal and reformatory, and the educational institutions; the common schools; and the principal and interest of the State debt. The commonwealth does not engage in any industry from which it may derive an income. To meet these expenses, therefore, it must depend upon the contributions of its citizens and of others who enjoy its protection. The legislature has faithfully endeavored to provide this revenue. “Experience the impression deeper makes that Indiana does not follow, but leads, in fidelity to the great principle that should underlie the provisions of raising revenue by taxation, that of equal and exact

¹ See *Art. IV. Sect. 22*, for the complete enumeration.

² See *Art. X. Sect. 3*.

³ See *Art. X. Sect. 5*.

⁴ See *Art. X. Sect. 7*.

⁵ See *Art. X. Sect. 1*.

justice to all.”¹ The following are the chief sources of revenue: a tax on polls; taxes on all property within the jurisdiction of the State, not expressly exempted;² incorporation fees; insurance fees and taxes; corporation taxes; and other fees. In addition to this revenue from taxation, there is an income from the interest on the school fund; from forfeitures; from escheats and certain fines; and from the earnings of benevolent, reformatory and penal institutions.³ The legislature authorizes by law, that on each one hundred dollars’ worth of taxable property, a certain number of cents be raised for specific purposes. This is called the State tax levy.⁴ The revenue collected for a certain fund cannot be diverted to any other fund even for the purpose of meeting a deficiency there. The revenue derived from taxation for general State purposes is applied first to the payment of the ordinary expenses of government, then to the payment of interest on the State debt, and then to the payment of the principal of the public debt.⁵ In making appropriations for State institutions, the General Assembly is guided largely by the report of a

¹ Report of State Board of Tax Commissioners for 1897, p. 3.

² *Revised Statutes*, 6270-1. The following exemptions are authorized: (1) Property of the United States and of the State; (2) property of any county, city, town or township; (3) lands granted for common schools, so long as they remain unsold; (4) personal property and real estate of schools; (5) all property and endowments for educational, literary, scientific or charitable purposes; (6) buildings and land (not exceeding ten acres) for religious purposes and cemeteries; (*Revised Statutes*, 6273); (7) bonds and other interest-bearing debts of the State or municipal corporations. Acts 1903, p. 322.

³ See *Art. VIII. Sect. 2.*

⁴ The levy for 1905 is as follows: For general State fund, 12 cents, and 50 cents upon each taxable poll; for the State benevolent institution fund, 5 cents; for the State common school tuition fund, 11 cents and 6 mills; for the State educational institution fund, $2\frac{3}{4}$ cents; total, 31.35 cents.

⁵ See *Art. X. Sect. 2.*

committee appointed from the members-elect by the governor soon after the general election in November. An accurate statement of the receipts and expenditures must be published with the laws of each regular session of the General Assembly.¹

III. THE EXECUTIVE DEPARTMENT.

57. The Executive Department is charged with the duty of carrying out the will of the people as expressed by the legislative branch. However good and just the laws may be, unless they are strictly and impartially enforced they are worse than no laws, for they tend to bring all laws into ill repute and disrespect. It is not the province of the executive department to inquire into the justice or wisdom or constitutionality of a law. If the executive were to use his own discretion as to what laws he would enforce, the will of the people as expressed by the legislature might be wholly annulled. According to the Constitution the executive power is vested in a governor.² A lieutenant-governor is also provided for.³ They are elected by the people at the general elections.⁴

58. The Governor.—The term of his office is four years,⁵ and no person is eligible more than four years in a period of eight.⁶ To be eligible to the office of governor, a candidate must be thirty years of age, must have been five years a citizen of the United States and also a resident of the State for the five years just previous to his election, and must not be a member of Congress or officeholder under the United States or this State.⁶ He is ineligible to any other office during the term for which he

¹ See *Art. X. Sect. 4.* ² See *Art. V. Sect. 1.* ³ See *Art. V. Sect. 2.*

⁴ In case there is no election because of a tie vote, the General Assembly elects.

⁵ But a temporary appointment to fill out a term is not reckoned a part of that period. See *Art. II. Sect. 11.*

⁶ See *Art. V. Sects. 7 and 8.*

is elected.¹ The term begins on the second Monday of January of the odd-numbered years (1897, 1901, etc.).

It is the duty of the governor to take care that all the laws be faithfully executed, and he is empowered to call out all the military and naval forces of the State to accomplish that purpose. He is commander-in-chief of such forces except when they are called into the service of the United States. He is required to inform the General Assembly of the condition of the State and to recommend such measures as he judges to be necessary and expedient. All bills passed by the legislature must be presented to him for his approval or disapproval.² He may require information from the heads of the administrative departments. He is empowered to grant reprieves,³ commutations and pardons,⁴ after conviction, for all offences except treason and cases of impeachment; to suspend execution of sentence for treason until the next meeting of the Assembly; to remit fines and forfeitures; but he is required to report each case of clemency to the General Assembly at its next meeting. He has power to fill vacancies in State offices; and to issue writs of election to fill vacancies in the General Assembly and in the National House of Representatives. He may change the place of meeting of the General Assembly if there is danger from disease or a common enemy;⁵ and may summon it in special sessions.⁶ He appoints the chief officers of the National Guard,⁷ and a number of officers and members of certain boards; he signs commissions of all military officers and those of all

¹ See Art. V. Sect. 24.

² See § 54 for the method of law-making.

³ A *reprieve* is a suspension of punishment of a convicted and sentenced person. A *commutation* is a change of punishment to a milder form. A *pardon* is a remission of the penalty and a forgiving of the offence.

⁴ The governor may refer all petitions for pardons to the State Board of Pardons before rendering his decision upon them.

⁵ See Art. V. Sects. 12-20.

⁶ See Art. IV. Sect. 9.

⁷ See Art. XII. Sects. 2 and 3.

judges and of all other officers except local officers; he proclaims the taking effect of all laws; he signs certificates of election of congressmen-elect. He may also remove certain officers for incapacity or unfaithfulness. His salary is \$8000 a year and can neither be increased nor diminished during the term for which he is elected.¹

59. The Lieutenant-Governor.—The lieutenant-governor is elected at the same time, for the same term, and with the same qualifications as the governor.² He presides over the Senate. In the committee of the whole he has a right to debate and vote, and when the Senate is equally divided he gives the casting vote.³ In case of the removal, death, resignation or inability of the governor, the duties of that office devolve upon the lieutenant-governor;⁴ and the General Assembly has provided by law that in case of the removal from office, death, resignation or inability of both governor and lieutenant-governor, the president of the Senate shall act as governor until the vacancy be filled. If there be no president of the Senate, the secretary of State shall convene the Senate for the purpose of electing a president thereof.⁵ As president of the Senate, the lieutenant-governor receives the same compensation as the speaker of the House,⁶ and in addition, \$1000 annually. When acting as governor he receives the governor's salary.⁷

60. Administrative Officers.—Though the Constitution vests the executive power in the governor, it authorizes the election of other officers who divide with him the executive functions. They are not appointed by him, nor removable by him; they are not his subordinates but co-ordinate with him. The only control he may exercise

¹ See *Art. V. Sect. 22* and *Revised Statutes*, sect. 5588.

² See *Art. V. Sects. 2-9*.

³ See *Art. V. Sect. 21*.

⁴ See *Art. V. Sect. 10*.

⁵ See *Revised Statutes*, sect. 5559.

⁶ Eight dollars per day.

⁷ See *Art. V. Sect. 23*.

over them is by virtue of his power to veto laws defining their duties.¹ The important powers and duties of the governor are defined by the Constitution; those of the State officers, by statutes. The chief of these administrative officers—the secretary, the auditor and the treasurer of State, the superintendent of public instruction,



THE GREAT SEAL OF THE STATE OF INDIANA.

the attorney-general, the State geologist and State statistician—are chosen at the general elections.² The governor, secretary, treasurer and attorney-general are required to reside and to keep the public records at the seat of government.³ Every officer is required to give a bond and to take an oath to support the Constitutions of the United States and of this State, and faithfully to discharge the duties of his office. All State officers, all judges and prosecuting attorneys are for crime, incapacity, or negligence liable to be removed from office either by impeachment by the House to be tried by the Senate, or by a joint resolu-

¹ But the governor may arrest and suspend the treasurer of State for official misconduct. See *Revised Statutes*, sect. 5643.

² See Art. VI. Sect. 1.

³ See Art. VI. Sect. 5, and *Revised Statutes*, sect. 5661.

tion; two-thirds majority of the members elected to each house is necessary in either case for conviction.¹

61. The Secretary of State is elected for a term of two years, and no person is eligible more than four years in any period of six. It is his duty to keep and preserve important documents, such as the enrolled copy of the Constitution of the State; a description of the State seal; the enrolled acts and joint resolutions of the General Assembly, and all books, records, maps and parchments deposited in his office; all official bonds except his own; and a certified copy of the laws of each session. He is required to attest the official acts of the governor and affix the seal of the State to all public instruments; to lay papers relative to acts of the governor before the Assembly when requested; and to give information to the governor when required; to furnish a certified copy of any law or public document; to prepare the acts and resolutions of the General Assembly, together with an index of them for printing; to certify that they are correctly printed;² and to supervise their distribution. All corporations are required to file with him their articles of incorporation. Descriptions of trade-marks and brands must be filed with him to entitle any one to their exclusive use. The duties of the secretary as to elections are very important.³ His salary is \$6500 a year.

62. The Auditor of State⁴ is the official book-keeper of the State. His term is two years, and no person is eligible more than four years in any period of six. He keeps all accounts of the State; he examines and liquidates accounts of all collectors of State revenues, and certifies the amount to the treasurer of State; he is required to keep clear and distinct accounts of all revenues and

¹ See *Art. VI. Sect. 7.*

² See *Revised Statutes*, sects. 5590-92.

³ They are more fully described in the chapter on Elections.

⁴ See *Revised Statutes*, sects. 5610-26.

expenditures, showing the particulars of every expenditure and disbursement. He is empowered to examine, adjust and settle all accounts of public debtors; and to examine carefully all claims against the State to see that they are just and legal. No money can be paid out of the State treasury without his warrant on the treasurer, and no money can be received unless accompanied by his draft in favor of the treasurer and his certificate specifying the amount and the fund to which it is to be credited. He is required to furnish information concerning his department upon the request of the governor. It is his duty to report to the General Assembly at its biennial session a complete statement of the revenues, taxable funds, resources, incomes and property of the State, and an exhibit of the public revenues and expenditures of the two preceding years with a detailed estimate of expenditures for the two ensuing years, showing also the resources and means from which the same may be obtained. He protects the people against frauds by exacting reports from State and savings banks and by causing a rigid examination of them. He also requires statements of the condition of insurance companies, building and loan associations, loan deposit companies¹ and bonding and surety companies. His salary is \$7500 a year.

63. The Treasurer of State is elected for a term of two years and no person is eligible more than four years in a period of six. Before entering upon the duties of his office, he must execute a bond in the penal sum of \$700,000 with twenty or more good sureties, that he will faithfully discharge the duties of his office. It is his duty to receive and deposit all money of the State in the treasury of the State, and he is expressly prohibited from loaning or using it or depositing it elsewhere. He is also prohibited from receiving or paying out any money whatever, except upon

¹ See *Revised Statutes*, sects. 2701, 2702, 2748, 2749, 3420f, 3420bb.

the draft or warrant of the auditor. At the end of each month, the treasurer, with the auditor, makes out and causes to be published a statement of the amount of money in the treasury, specifying the amount in each particular fund. He is required to publish annually a tabular statement, exhibiting the receipts and expenditures for the last fiscal year and specifying the items of each account. A similar statement must be laid before the General Assembly on the first day of every session. He must permit an inspection of the treasury at any time by an accountant appointed by the governor or by a committee appointed by the General Assembly.¹ His salary is \$6500 a year.

64. The Attorney-General² is elected for a term of two years with no restrictions upon his re-eligibility. It is his duty to prosecute or defend all suits by or against the State; to represent the State before the supreme court in all cases in which the State is or may be interested;³ to defend all suits brought against State officers in their official relation, except those brought by the State. He is required to give legal advice to the governor, to any other State officer, and to either branch of the legislature when it desires his opinion as to the constitutionality of any proposed law. His salary is \$7500 a year. All fees received by him must be turned into the State treasury.

65. The Superintendent of Public Instruction⁴ is elected for a term of two years with no limitation upon the number of terms. He is charged with the administration of the system of public instruction; a general superintendence of the business relating to the common schools;

¹ See *Revised Statutes*, sects. 5632-44, and 7339.

² See *Revised Statutes*, sects. 5656, 5659, 5663, 7340.

³ In a case in which the public, as such, has an interest, it is the general practice of the supreme court to request the attorney-general to submit a brief on the side of the public.

⁴ See *Revised Statutes*, sects. 4406-10, 4413, 4420, 4477 and 7343.

and a supervision of the school funds and school revenues. He is required to advise school officers concerning the administration and construction of school laws; to report to the General Assembly biennially, giving an exhibit of school funds and revenues, of statistics, of his labors, of estimates for the following year, and the estimated value of school property. It is his duty to visit each county once during his term, and examine the auditor's books to ascertain the amount and safety of the school funds and revenues. He has the power to apportion semi-annually the school revenue for tuition to the several counties according to the last enumeration of school children. He superintends the purchase of books for township libraries. He is *ex officio* a member of the State board of education and of the State library board. He receives a salary of \$3000 a year and his traveling expenses.

66. The State Geologist is elected to serve for four years. The purposes of this department are to make a geological and scientific survey of the State, in order to discover, develop and preserve its natural resources; and to collect and disseminate information concerning its agricultural, mining and manufacturing advantages. He has charge also of the museum and the war relics. He is authorized to appoint an *Inspector of Mines* for a term of two years at a salary of \$1800; and a *Natural Gas Supervisor* for a term of four years at a salary of \$1200. The salary of the State geologist is \$2500 a year.

67. The Chief of the Bureau of Statistics is chosen for a term of two years. It is his duty to collect, systematize, tabulate and present in annual reports statistical information relating to agriculture, manufacturing, mining, commerce, education, labor, social and sanitary conditions, vital statistics, marriages, deaths and the prosperity of the people. He is required to make a biennial report to the legislature. The officers of the bureau have power to examine witnesses under oath, to compel their attendance and the production of papers. His salary is \$2000 a year.

68. Centralization of Government.—One of the interesting aspects of modern State government is the tendency toward centralization of power in the hands of State officials. This is indicated in Indiana by the rapid increase, especially since 1889, in the number of appointive State officers and State boards with extensive administrative powers.¹

One does not need to seek far for the general causes of this centralization. The growth of population requires an extension of governmental functions and a more careful organization of the machinery of administration. It also increases the expenditures and the burdens of taxation. A more just distribution of such burdens, and a more efficient administration, can be attained by establishing a considerable degree of centralization in the system of taxation. Experience has taught the same lesson in the administration of the school system.

The concentration of population in cities, and the complex industrial system, with its greater division of labor and localization of production, have made communities more dependent upon one another for the satisfaction of their wants. As the facilities of communication and transportation have been multiplied and perfected, as capitalists have acquired interests in various parts of the State, and as people have become more conscious of their economic interdependence, the evil consequences of disease, corruption, disorder and illiteracy are no longer isolated phenomena, but they affect all parts of the body politic. There has gradually unfolded a clearer view of the common weal; a higher State spirit has been aroused; and a deeper feeling of sympathy and a keener sense of duty have been disseminated. Hence, there has followed a demand

¹ An extended treatment of this subject will be found in the author's "Centralizing Tendencies in the Administration of Indiana." The Macmillan Co., N. Y., 1903.

for State control or State supervision over the administration of affairs, which had formerly been wholly neglected, or left to the uncertain and inefficient administration of local officers.

The growth of the humanitarian spirit has done much to urge us toward this goal. There is a profounder sense of duty toward the helpless, the unfortunate and even towards the criminal. This has led to the establishment of State and local institutions for the care, treatment, education, restraint and reformation of these classes which has necessitated the expenditure of large sums of money. The scientific study of these problems has driven investigators to the conclusion that the highest social good cannot be accomplished in the most economical way without an increasing degree of centralization.

An examination of the administrative history of Indiana will demonstrate that this centralization has resulted in a more efficient administration, has secured a greater safety of funds, has protected more thoroughly the interests of the whole people, has ameliorated the condition of the unfortunate classes, for whose care and education the State is responsible, has led to the substitution of the reformatory in place of the vindictive principle in the management of the penal institutions, and has helped to elevate the social and moral tone by diffusing knowledge and culture through the agency of the common schools.

Both theory and experience demonstrate that this gravitation towards centralization in administration is in harmony with our progressive political ideas, our pecuniary interests and our highest prosperity and happiness. This conclusion does not involve a rejection of local self-government as unnecessary, or an abandonment of the ideals of the Fathers. It does signify, however, that new limits must be set to the spheres of local administration and central jurisdiction, as the social and economic needs may require a readjustment.

In the sections following will be found an enumeration of these appointive officers¹ and boards, with a brief statement of their powers.² No uniform system of appointment to these boards has been adopted. The offices in the institutions have frequently been distributed as rewards for party service without regard to merit or competency. The people, if not the politicians, will certainly encourage the recent policy of entrusting their management to experienced officials without regard to their politics. In many of the boards it is required that not more than two members can be of the same political party.

69. The Department of Inspection has supervision of the enforcement of the laws providing for protecting the liberty, safety, and health of laborers. The Chief Inspector is appointed by the governor, with the consent of the senate, for a term of four years at a salary of \$1800. He, with the consent of the governor, appoints two deputies. The Chief Inspector is also charged with the enforcement of the law providing for the protection of the public from fires, the sanitation of food producing establishments, and the granting of certificates of authority to boiler inspectors.

70. The State Librarian is elected by the State library board and serves until his successor is elected. He has charge of the State library under the management of the State board. It is his duty to distribute the House and Senate journals, the documentary journals, and the laws of Congress received by the State. His salary is \$1800 a year.

71. The Commissioner of Fisheries is appointed by the governor for a term of two years. It is his duty to

¹ The officers mentioned in section 66 would logically fall within this group.

² It would prove a valuable study to have the class examine in detail the laws and reports relating to one or more of these boards.

examine lakes, rivers and streams, to see if they can be made more productive in the supply of fish, and to ascertain what means are most expedient for the propagation and protection of fish. He is empowered to appoint deputies in each county to secure the enforcement of the fish laws. His salary is \$300 and expenses.

72. The Superintendent of Public Buildings and Property is appointed by the governor. He holds his office subject to removal at any time. It is his duty to care for the State capitol and grounds and to purchase supplies under the order of the board. His salary is \$1500 a year. The governor appoints a State-house engineer for a term of four years at a salary of \$1500.

73. The State Entomologist is appointed by the governor for a term of four years, whose duty it is to inspect all nurseries at least once each year, and to notify the proper authorities of the presence of the San José scale or of other insects or fungi injurious to trees or plants, and to notify the owner of any such affected stock that he must take measures to destroy such insects or fungus.

74. The State Chemist.—The Professor of Agricultural Chemistry at Purdue University is constituted the State Chemist, whose duty it is to inspect and analyze fertilizers.

75. A State Supervisor of Oil Inspection is appointed by the governor for a term of four years. It is his duty, either in person or through his assistants, to test the quality of mineral or petroleum oils offered for sale for illuminating purposes, and to prosecute violators of the act regulating the sale of such oils. His salary is \$2500 per year.

76. A State Veterinarian is appointed by the governor for a term of four years. His salary is determined by a committee composed of the governor, auditor of State and treasurer. It is his duty to protect the health of domestic animals by investigating and applying the most efficient

and practical means for the prevention, suppression and control of contagious or infectious diseases of a malignant character. He has power to establish quarantine regulations.

77. State Boards.—1. The State Board of Tax Commissioners (governor, auditor and secretary of State, and two persons appointed by the governor) prescribes forms for assessment, construes tax and revenue laws, sees that assessments (especially of corporations) are made according to law and that taxes due are collected, enforces penalties for disobedience of revenue laws, and determines the amount necessary to be levied upon property in the several counties to cover a deficiency in the State revenue. At least one member visits each county in the State once a year to hear complaints. The most responsible duties of this board are to hear and determine appeals from the order or assessment of the county board of review; to assess the property of railroads, telegraph, telephone, palace-car, sleeping-car and express companies and corporations; and to equalize the assessment of real estate and personal property in the several counties. The salary of the appointed commissioners is \$2000 each per annum.

2. The Railroad Commission¹ (three members appointed by the governor for a term of four years) has power to supervise the passenger and freight tariffs of railroads, to prescribe regulations to govern car service, to correct abuses and prevent unjust discrimination and extortion in rates, and to alter any rate or classification whenever found to be unjust and discriminative with the right of appeal on the part of the railroad to the appellate court. The salary of the members is \$4000 each per year.

3. The Labor Commission² (two members appointed for a term of four years by the governor, with the confirmation of the Senate, one representing the interests of labor, the other the interests of capital) is charged with the duty of mediation in labor controversies. If mediation fails, "they shall endeavor to induce the parties to submit their differences to arbitration."

¹ The commission has authority only over business within the State.

² When sitting as a board of arbitrators the president of the tribunal is the judge of the circuit court of the county in which the controversy arises. To these may be added one member named by each party to the controversy.

4. **The State Board of Agriculture**¹ (sixteen members elected by the State board in conjunction with the presidents and delegates from county agricultural societies) meets annually for "deliberation and consultation as to the wants, prospects and condition of the agricultural interests throughout the State." It may hold annual State fairs.

5. **The State Board of Forestry** consists of five members, appointed by the governor as follows: One a member of the Hardwood Lumber Dealers' Association of Indiana, one a member of the Retail Lumber Dealers' Association of Indiana, one from the faculty of Purdue University, one who is actively engaged in farming, and one who has special knowledge of the theory and art of forest preservation and timber culture. The last-mentioned member is the secretary of the board and State forester and superintendent of State forest reserves. It is the duty of the board to collect and classify information respecting forests, forest preservation and timber culture, to recommend plans and methods for the same, and to make rules and regulations governing the management of forest reservations.

6. **The State Board of Education** (governor, superintendent of public instruction, the presidents of Indiana University, Purdue University, and the State Normal School, the superintendents of the common schools of the three largest cities in the State, and three other members appointed by the governor, one of whom must be a county superintendent) considers the administration of the school system, grants State certificates to teachers, prepares questions for county examinations, and selects and adopts the series of text-books for use in the schools of the State. They also elect five trustees of Indiana University. The same board is constituted the State library board, which manages and controls the State library, purchases new books, and appoints the State librarian.

7. **The Public Library Commission** (composed of three members appointed by the governor for a term of four years and

¹ This is, in fact, a self-perpetuating private corporation which receives aid from the State. In like manner, the State Horticultural Society, the State Dairymen's Association, the State Florists' Association and the Indiana Academy of Science, receive slight assistance from the State.

the State librarian) has the control and management of the travelling libraries.

8. The State Board of Health is composed of five members; four appointed by a board of appointment, consisting of the governor, secretary and auditor of State; the fifth, a physician, elected by the other four, acts as secretary of the board and is the health officer of the State. It supervises the health and life of the citizens of the State, makes sanitary investigations, establishes quarantines, may regulate the plumbing, drainage and water supply of public buildings, and supervises the registration of births, deaths and marriages. The board is expected to coöperate in the enforcement of the laws prohibiting the pollution of streams and the sale of impure oils, drugs and foods. To aid in the enforcement of such laws, a State laboratory of hygiene is established as a department of the State board of health, under the direction of a superintendent and a chemist, both appointed by the State board of health.

9. The State Board of Medical Registration and Examination (six members appointed by the governor for a term of four years) grants certificates entitling the holders thereof to licenses to practice medicine in the State, and may revoke such licenses.

10. The State Board of Dental Examiners (five members; one appointed by the governor, one by the State board of health, and three by the Indiana State Dental Association for the term of two years) grants certificates entitling the holders thereof to licenses to practice dentistry in the State.

11. The State Anatomical Board (composed of the president of the State board of health and one representative from each of the medical and dental schools of the State) has charge of the distribution among these schools of the dead bodies of persons which are not claimed by any relatives or legal representatives, and which may be required to be buried at public expense.

12. The State Board of Registration and Examination of Nurses (five members appointed by the governor for a term of three years) grants certificates entitling holders thereof to practice as trained nurses, and has authority to revoke such licenses.

13. The State Board of Embalmers (five members appointed by the governor for a term of four years) issues licenses upon examination to persons desiring to practice the profession of embalming.

14. **The Indiana Board of Pharmacy** (composed of five pharmacists appointed by the governor for a term of four years) has power to grant licenses to registered pharmacists and assistants.

15. **The State Board of Veterinary Medical Examiners** (four members appointed by the governor for a term of four years) grants licenses to persons desiring to practice veterinary medicine.

16. **The Board of State Charities** (six members appointed by the governor, who is an *ex-officio* member and president) investigates the whole system of public charities and correctional institutions of the State. It elects a secretary who is the real executive officer of the board. Its work has been of inestimable value to the State in preventing extravagance and in originating reforms. It also appoints a State agent to assist in enforcing the provisions of the act (of 1897) authorizing counties to establish orphan asylums.

17. **The State Board of Pardons** (three members appointed by the governor for a term of four years) examines into the merits of petitions presented to the governor for pardon, and reports to him in writing its conclusions and recommendations in each case.

18. **A Board of Control** (three members appointed by the governor) has charge of the State prison at Michigan City.

19. **A Board of Managers for the State Reformatory**¹ (four members appointed by the governor for the term of four years) has the government and control of the penal institution in which are confined "the male prisoners found guilty of a felony other than treason or murder in the first or second degree and who are more than sixteen and less than thirty years of age."

20. **Two Boards of Managers for the Indiana Industrial School for Girls and the Indiana Women's Prison**² (each of three members, who must be women) are appointed by the governor.

21. **The Board of Control of the Indiana Reform School for Boys**³ (three members appointed by the governor) has charge of the school for juvenile offenders.

¹ Located at Jeffersonville.

² Located near Indianapolis.

³ Located at Plainfield.

22. **Eight Boards of Control** (each of three members, appointed by the governor) have the management of the five insane hospitals,¹ the village for epileptics, the institution for the education of the deaf and dumb, and the institution for the education of the blind.

23. **The Board of Trustees for the Indiana School for Feeble-minded Youth**³ (three members, one a woman) is appointed by the governor.

24. **The Board of Trustees for the Indiana Soldiers' and Sailors' Orphans' Home**⁴ (three members, one a woman—the widow, wife or daughter of an honorably discharged Union soldier) is appointed by the governor.

25. **The Board of Trustees for the State Home for Disabled and Destitute Soldiers, Sailors or Marines and the Wives and Destitute Widows of such Soldiers, Sailors or Marines**,⁵ is appointed by the governor. The five members must be honorably discharged soldiers or sailors of the Union army or navy in the war of the Rebellion and not more than three of the same political party.

26. **The Board of Trustees of Indiana University** is composed of eight members; three elected by the alumni resident in the State, and five by the State board of education.

27. **The Board of Trustees of Purdue University** (nine members) is appointed by the governor, two being nominated by the State board of agriculture, one by the State board of horticulture and six being selected by the governor himself.

28. **The Board of Trustees of the State Normal School** (four members) is appointed by the governor.

29. **The State Board of Election Commissioners** (the governor and two electors appointed by him, one from each of the leading political parties) is charged with the preparation and distribution of the ballots and pencils for the election of State officers.

¹ The hospitals for the insane are located near Indianapolis, Evansville, Richmond and Logansport.

² The institutions for the education of the deaf and dumb and of the blind are located at Indianapolis.

³ Located at Fort Wayne.

⁴ Located at Knightstown.

⁵ Located near Lafayette..

30. The Indiana Voting Machine Commission (three members appointed by the governor) has the duty of examining voting machines, and reporting upon their accuracy, efficiency and capacity before the adoption of such machines.

31. The Commissioners of Public Printing (governor, secretary and auditor of State, and reporter of the supreme court), have charge of all the public printing and binding authorized by law. They appoint a clerk of the bureau of printing, who is an expert and has immediate charge of the work.¹

78. The Militia² is an important part of the executive department. It consists of all the able-bodied male citizens between the ages of eighteen and forty-five, except those exempted by National or State law. It is divided into two classes, the sedentary and the active militia. The active militia consists of such citizens as may be enrolled, organized and mustered into the service of the State. It is styled the "National Guard." The sedentary militia consists of all other citizens subject to militia duty. The organized force consists of about 2900 men and officers. In case of emergency the governor may temporarily increase it. All members of the militia are exempt from service on jury. Applicants for admission must pass a physical examination and take a suitable oath. The governor appoints all staff officers and all others having a rank equal to or above the rank of a major. Persons conscientiously opposed to bearing arms are exempt from military duty, but may be required to pay an equivalent for such exemption. Whenever there is any tumult, riot or mob offering violence to any person or property, breaking and resisting the laws of this State or the laws and authority of the

¹ There are also [in 1905] two temporary boards—the Shiloh National Park Commission and the National Park Commission—charged with the duty of ascertaining and marking the positions of Indiana troops in the Battle of Shiloh and the Siege of Vicksburg.

² See *Art. XII.*

United States or threatening such disorder, the governor may order the military authorities to quell the tumult or prevent the disorder, upon the request of the mayor, or of a court of record sitting in the city or county, or of any judge thereof, or of the sheriff, or his deputy.

79. Notaries Public are appointed by the governor for a term of four years. Their jurisdiction is co-extensive with the limits of the State. They are empowered to certify acknowledgments of deeds or other instruments, to administer oaths and to certify affidavits and depositions.

IV. THE JUDICIAL DEPARTMENT.

80. The Judicial Power of the State is vested by the Constitution in a supreme court, circuit courts and in such other courts as the General Assembly may establish.¹ In accordance with this power the legislature has instituted an appellate court for the State at large, and superior and criminal courts for certain counties, has authorized mayors' courts and police courts for cities, and has recognized the superior court of Marion county as a court of claims. The courts of the justices of the peace are also established by the Constitution.²

81. The Supreme Court.—The supreme court is the highest court in the State. It has been wisely provided by the Constitution that the number of judges cannot be indefinitely increased or decreased by the General Assembly for partisan purposes. There cannot be less than three nor more than five. At present their number is five. They serve for a term of six years.³ The State is divided into five districts as nearly equal as possible, and one judge is elected from each district and must reside therein; but each judge is elected by all the voters in the State.⁴ Two terms of court are held each year at the capital, one begin-

¹ See *Art. VII. Sect. 1.*

² See *Art. VII. Sect. 14.*

³ See *Art. VII. Sect. 2.*

⁴ See *Art. VII. Sect. 3.*

ning the fourth Monday in May, the other the fourth Monday in November. At each term the judges choose one of their number chief justice, who presides over the court; but no judge can serve twice until each of the other judges has presided. Three members constitute a quorum. The salary of each judge is \$6000, and cannot be diminished during his term of office.

82. The Jurisdiction of the Supreme Court¹ is wholly appellate, but it is co-extensive with the limits of the State. However, the judges individually may preside at the trial of any case in any county of their respective districts wherein the circuit judge is incompetent to preside.

The purposes of a trial in the supreme court are to determine whether a law has received the proper interpretation and application by the lower court and to ascertain whether a particular law is in harmony with the provisions of the Constitution and therefore binding upon the citizen. The court examines evidence and hears the arguments of counsel, but no new testimony is admitted and there is no jury. The judgment of the court is the opinion held by a majority of the judges. It may reverse, modify or affirm the decision of the lower court. It is final unless the case involves the Constitution or laws of the United States; in such a case an appeal may be taken to some United States court. The decisions must be in writing; these are prepared for publication by the reporter of the court and become precedents for all similar cases. The *Reporter of the Supreme Court* is elected by the people for a

¹ *Jurisdiction* is the power conferred by the Constitution upon a judge to take cognizance of and decide cases according to law and to carry his sentence into execution. A court is said to have *original* jurisdiction when a case is begun in that court. It has *appellate* jurisdiction when it has authority to review or re-try cases in which judgment has been given in a lower court. When a court has sole power to try and determine a suit, it has *exclusive* jurisdiction; when each of two or more courts possesses this authority, each has *concurrent* jurisdiction.

term of four years and receives a salary of \$5000. A *Law Librarian*, appointed by the judges, has charge of the State law library.

Any judge or prosecuting attorney who shall have been convicted of corruption or other high crime may be removed from office by the supreme court,¹ disfranchised and rendered ineligible to office during his lifetime or for such shorter period as the court may deem expedient.

83. The Appellate Court.—In order to relieve the supreme court of the great pressure upon it, an act was passed in 1891 creating, for a period of six years, the appellate court. By subsequent legislation it has been made permanent. The court is composed of six judges, and for the hearing and decision of causes it sits in two divisions—one for each of the two districts of the State. Appeals from each district are taken to the division of the court, composed of the judges who reside in the district. In some instances cases must be decided by the entire court. In certain cases the appellate court has exclusive jurisdiction of appeals; in most cases their decisions are final, but in certain cases appeals may be taken to the supreme court.¹

The members are elected at large for a term of four years. Their salary is \$6000 each per year.

84. Circuit Courts.²—The State has been further divided for judicial purposes into sixty-two circuits, in each of which a judge is elected by the voters of the circuit for a term of six years. The judge presides over the court in each county of his circuit. The number and length of terms vary in the districts, depending upon the amount of business requiring adjudication. The circuit courts have exclusive original jurisdiction in all cases at law and

¹ It is impossible here to give the technical details. For further information, the student is referred to the *Acts*, 1901, pp. 565-71; *Acts*, 1903, p. 280-1; *Acts*, 1905, pp. 429, 656.

² *Art. VII. Sects. 8 and 9.*

in equity whatsoever, and in criminal cases and actions for divorce, except where exclusive or concurrent jurisdiction is conferred by law upon justices of the peace. They have exclusive jurisdiction of the settlement of decedents' estates and of guardianship.¹ They also have jurisdiction of all other causes, matters and proceedings where exclusive jurisdiction is not conferred by law upon some other court, board or officer. They have appellate jurisdiction of cases originating in city courts, mayors' courts or justices' courts and of appeals from the decisions of the county commissioners. They have power to make judgments, sentences and decrees, and to issue all processes and to do such other acts as are necessary to carry them into effect. Each day's proceedings are drawn up by the clerk, read in open court and signed by the judge. The salary of a circuit judge is \$2500, but in circuits having a city of over 30,000 inhabitants, it may be increased by the county commissioners, but not more than \$1500. The officers of the court are the clerk and the sheriff.²

85. Prosecuting Attorneys.³—A prosecuting attorney is elected in each judicial circuit for a term of two years. It is his duty to prosecute in the circuit courts all offenders against the State laws, and to act as counsel for the counties within his circuit, in all suits to which they are parties. His annual salary is \$500 and fees.

86. Superior Courts.—In order to relieve the circuit courts of the excess of business, superior courts have been created in the counties of Allen, Marion, Tippecanoe, Vanderburgh, Vigo, Madison, Grant, and Howard, and in the district composed of the counties of Lake, Porter and La Porte. The voters of the respective counties and district elect one judge for each court, except for that of Marion county, in which three judges are elected. The term of

¹ Except in counties where such jurisdiction is conferred upon criminal or superior courts.

² See §§ 98 and 102.

³ See *Art. VII. Sect. 11.*

the judges is four years and their salaries range from \$2500 to \$4000. These courts do not all have the same jurisdiction. In general, it may be said that they have original and concurrent jurisdiction with the circuit courts in most civil causes. They have also concurrent jurisdiction with the circuit court in appeals from lower courts. The superior court of the district mentioned has also original and concurrent jurisdiction with the circuit courts in all criminal actions for misdemeanors.

87. The Court of Claims.—A State cannot be made a defendant in a suit except with its own consent. Indiana has recognized the Marion County superior court as a court of claims to decide cases in which persons make a money demand against the State. It is the duty of the attorney-general to defend the State in such cases. Either party may appeal to the supreme court. No execution is issued in case a person is adjudged a sum of money. He must depend upon the General Assembly for an appropriation to satisfy his claim. In case the next ensuing session of the legislature does not appropriate money to discharge the debt, the judgment draws six per cent. interest until paid.

88. Criminal Courts.—In the counties of Marion, Allen and Vigo, criminal courts have been created. In each case they consist of one judge elected by the legal voters for a term of four years. These courts have original exclusive jurisdiction of all crimes and misdemeanors except where jurisdiction is by law conferred upon justices of the peace, and such appellate jurisdiction in criminal cases as the circuit courts of those counties exercised before the creation of the criminal courts. The salary of the judge of Marion county is \$3200, of each of the others \$2500.

89. Juvenile Courts.—In any county containing a city with a population of 100,000 inhabitants, there is established a special court known as the juvenile court, which has jurisdiction in all cases relating to children,¹ except

¹ Boys under 16 and girls under 17 years of age.

probate cases. The judge of the court is elected for a term of four years and receives a salary of \$2500.

The judge has a wider discretion than the judges of other courts. He has authority to withhold judgment; commit the offender to a volunteer probation officer, who is to exercise supervision over it; order the child placed in the family of a suitable person or in an institution for dependent children; impose a fine; require, in certain cases, the repair of the damage or the payment for, or restoration of stolen goods; or commit to the Indiana Boys' School or the Industrial School for Girls. The purpose of such a court is to keep juvenile offenders from the contaminating influences of confirmed and hardened criminals.

90. Minor Courts.—In each township in the State, one or more justices of the peace are elected who have jurisdiction in civil cases where the amount at issue is small, and in criminal cases where misdemeanors are charged. In most of the cities are mayors' courts and police courts which try and punish petty offenders.

91. Officers of the Courts.—Each of the courts, except that of the justice, has a clerk and sheriff. The clerks administer oaths, sign processes and keep the records and papers of the court. The clerk of the supreme court acts as clerk for the appellate court. He is elected at the general election for a term of four years at a salary of \$5000. The clerks and sheriffs of the circuit courts serve for the superior and criminal courts. It is the duty of the sheriffs to execute all orders and processes of their respective courts. The sheriff of the supreme court is appointed by the judges for a term of two years. He also serves for the appellate court.

CHAPTER III.

COUNTY AND TOWNSHIP GOVERNMENT.



THE COUNTY.

92. **Local Government** is that portion of governmental control by which local affairs are regulated by local officers acting under local laws and statutes of the State government. Each community has special wants of which its residents are most competent to judge. The instinct of the Anglo-Saxon race has favored leaving the management of local affairs to local officers.¹ However, if this principle should be carried to an extreme, it would result in the splitting up of the State into numerous small sovereignties without influence or power to accomplish great enterprises or to protect themselves against foreign aggression. In some respects the interests of each community cannot be separated from the interests of the State as a whole. The happiest solution of this question is that division of authority whereby the central government, under constitutional restrictions, enacts general laws uniform in their application which control and direct all executive officers, but whereby the greater part of the

¹ The English colonists brought with them to America ideas of local self-government which they adapted to their peculiar needs. In New England, where the settlements were compact, the system was adopted in which the town or township was the unit. In the South, where the people lived far apart on large plantations, the county system prevailed. In the Middle States there was instituted a mixed system in which the management of local affairs was divided between the township and the county. In Indiana the mixed system exists.

executive work is performed by local officers selected entirely by the people of the locality. Although the Constitution says that "the executive powers of the State shall be vested in a governor," neither the governor nor the State officers united can reach out the executive arm into all parts of the State to control the execution of all the State laws. They have little discretionary power; they are not free to follow the bent of their own wills; for their official conduct is marked out with minuteness by statute. Much of the administrative power of the State is diffused throughout nearly a hundred counties and thousands of officers. The central authorities have complete control over few of these officials and little more than an advisory superintendence over others; and they can control most of them only by the enforcement of general laws in the courts of the State.¹

93. The County.—The officers of a county serve, then, in two capacities: as the agents of the State in the administration of State laws;² and as the agents of the people of the county in the performance of those services which concern the county and its inhabitants as distinct from the rest of the State. Their work is chiefly administrative and judicial, but the commissioners may within limitations legislate on certain subjects in the application of general laws to the county. The number, boundaries and offices of the counties have been determined by the State and may be modified or abolished by changing the laws or Constitution of the State. The number of counties since 1859 has been ninety-two. New counties may be formed out of existing counties; but no county may

¹ The growth of this central authority has been indicated in previous sections (68-77).

² See *Art. VI. Sect. 2.*

be reduced to an area less than four hundred square miles, nor may any county under that area be further reduced.¹

94. The County Seat is the place where the courthouse, the jail and other public buildings of the county are located. It is generally near the centre of the county. It can be changed from one place to another only upon a vote of the electors of the county.

95. The County Officers are either elected or appointed. The commissioners, the members of the county council, the clerk of the circuit court, the auditor, the recorder, the treasurer, the sheriff, the coroner, the surveyor and the assessor are elected at the general elections by the voters of each county. The county superintendent of schools is chosen by the township trustees; jury commissioners, master commissioners and the probate commissioners are appointed by the judge of the circuit court; the superintendent of the county asylum and the county physicians are appointed by the county commissioners. All county officers must be electors and inhabitants of their respective counties.² There is no uniform date for the beginning of the terms of many of the county offices. It varies for different offices in the same county and often for the same office in different counties. Vacancies in the elective offices, except that of county superintendent, are filled by appointment made by the commissioners. Vacancies in the appointive offices are filled by the original appointing power. Officers may be removed upon conviction by a jury for offenses against the laws of the State. The salaries of the county offices are graded in proportion to population and service.³

96. The Commissioners.⁴—In the western States, where

¹ See *Art. XV. Sect. 7.*

² See *Art. VI. Sect. 4.*

³ All fees received by county officers, except those received by the coroner, the surveyor, and by the treasurer for the collection of delinquent taxes, must be paid in to the county.

⁴ They are frequently referred to as the county board.

the mixed system of local government prevails, it may take one of two forms: in one, the township element is predominant; in the other, the county organization prevails. In the former, the unit is the township and the county is composed of several units and is managed by representatives from those units; in the latter, the county is the unit and its management is in the hands of commissioners elected by the whole county. In Indiana each county is divided into three districts, and from the residents of each district a commissioner is elected by the voters of the whole county for a term of three years, two being chosen at each election. The time for the regular sessions¹ of the board of commissioners is the first Monday of each month.

"In legal contemplation the board of commissioners is the county."² The commissioners are the most important administrative officers of the county; they have, also, judicial and legislative authority. They authorize the erection of public buildings and have full control over all county property. They let contracts for supplies for county officers and hear claims and allow accounts against the county not otherwise provided for. They have power to audit the accounts of all officers having charge of county money; to remove the county treasurer when suit is brought against him on his official bond; to audit the warrants of township trustees; to exact from them complete reports of receipts and expenditures, and to inspect their accounts of the school funds; to examine the records and fee books of county officers who receive fees for services; to approve official bonds of county officers; and are required to publish annually a statement of the receipts and expenditures. They may exempt the poor from the payment of poll taxes; refund taxes wrongfully

¹ The sessions must be held with open doors, and continue as long as the necessary business requires.

² State, *ex rel.*, *vs.* Clark, 4 Indiana, 316.

paid; and pay certain bounties. They have important duties in connection with elections.¹ They grant licenses to owners of ferries and to vendors of liquors. They constitute the county board of health and appoint the health officer for the county; they may also appoint inspectors of food products. They divide the county into townships and councilmanic districts. They serve as a board of turnpike directors and have the management of all free turnpikes; they have power to control the location, construction and repair of all highways except in towns and cities; to change and straighten water-courses and to repair navigable canals. They may furnish relief to the poor, establish county hospitals and asylums for orphans and the indigent,² and provide for the confinement of criminals. These are the most important of their extensive powers. The compensation of the commissioners of each county is specified by law. It ranges from \$100 to \$2200 per annum.

97. A County Council consisting of seven members—four elected from councilmanic districts and three elected at large—is established in each county. No person can hold the office of councilman who holds any State, county, township or municipal office, or who is not a voter and resident freeholder of the county. The term of office is four years. The county council is required to hold an annual meeting in September, and special meetings may be called by the auditor, who is the clerk of the council. The sheriff or his deputy is its executive officer. The council has power to expel its own members for violations of official duties and to declare the seat of any member vacant by reason of his disability or neglect to perform the duties of the office. The power to authorize the borrowing of money, the power to fix the rate of taxation for county

¹ See Chapter V.

² And in counties having 150,000 inhabitants an asylum for the incurable insane.

purposes and for all purposes where the rate not fixed by law is required to be uniform throughout the county, and the power to make appropriations of money to be paid out of the county treasury are vested exclusively in the county council. All county officers and township assessors are required to prepare itemized estimates of the amount of money necessary to meet the county expenses for the ensuing year. These estimates must be presented to the county auditor early in August. He is required to keep them on file subject to inspection and to give notice by publication of the aggregate amount of each itemized estimate. At the regular annual meeting of the council the auditor must present the estimates to that body and may make such recommendations with reference to them as he may deem proper. It is also his duty to prepare the ordinances fixing the rate of taxation and making appropriations. The council may adopt or amend them or substitute other ordinances for them. But it requires a three-fourths vote of the council to make an appropriation for an item not contained in any estimate or for a greater amount than that contained in any item of an estimate. The auditor is prohibited from permitting any item of an appropriation to be overdrawn; any unexpended appropriations at the end of the year revert to the general fund, if so ordered by the council. No county officer can bind the county by any contract or agreement beyond the amount of money appropriated for a particular purpose. In purchasing materials and supplies for the county the commissioners are required to prepare full and definite specifications of them, to advertise for bids thereon by publication in the newspapers, and to award the contracts to the lowest bidders. The salary of a councilman is not less than ten dollars nor more than twenty dollars per annum.

98. The Clerk of the Circuit Court is elected for a term of four years, and no person is eligible more than

eight years in any period of twelve. It is his duty to make an entry in the docket of every suit brought; to attend the sessions of the circuit court in his county; to administer oaths, and to enter in the proper record books all orders, judgments and decrees of the court. He receives and files certificates as to the standing of insurance companies. He has charge of probate matters and the settlement of estates. He issues marriage licenses and reports their number to the county health officer; he issues, also, licenses to practice medicine and dentistry. In examinations as to sanity, he keeps record of the proceedings, makes application for admission to the asylum, and sees that the necessary clothing is furnished the inmate. He is charged with important duties in connection with elections. The annual salary of the clerk varies from \$1000 to \$19,500.

99. The Auditor is elected for a term of four years, and no person is eligible more than eight years in twelve. He is the chief business agent of the county. He acts as the secretary of the board of commissioners. It is his duty to examine and settle accounts and demands against the county; to issue orders on the county treasurer for the payment of such claims; and to keep a complete record of all accounts. He is charged with the loaning of the school fund and is authorized to bring suit against any borrower who fails to pay the interest or principal when due. He attends to the sale of university lands. In taking the enumeration of school children, he receives the reports of the township trustees, corrects mistakes and reports to the auditor of State. He apportions the school revenue, to which his county is entitled, to the several townships, towns and cities. It is his duty to make out from the reports of assessors an aggregate assessment of all taxable real and personal property in the county. When the rate of the tax levy is certified to him, he calculates the amount of the State, county, school, township,

road, poll and all other taxes chargeable to each person, and makes and delivers a duplicate of this tax list to the treasurer. He is a member of the county board of review. He grants permits for keeping warehouses, keeps a set of standard weights and measures, and tests and seals the weights and measures¹ of those who desire to have them authenticated. The annual salary ranges from \$1100 to \$17,500.

100. The Treasurer is elected for a term of two years, and no person is eligible more than four years in any period of six. He must give bond with at least four freehold securities, in amount double the sum of money he may have at any time. He may be removed by the board of commissioners. Upon receipt of the tax duplicate he gives notice of the amount of tax assessed upon each \$100 for each purpose and upon each poll. It is his duty to receive and receipt for all moneys coming to the county; to disburse the same on the proper order of the auditor; to keep his accounts so as to show distinctly the amount in each separate fund; to keep his books open to inspection by the county commissioners; to exhibit the money in his office at least once in each year; to make a complete statement annually; and to make payment to the State treasurer of the State taxes collected by him, and to the township trustee of the revenue due to the township. He is authorized to collect delinquent taxes and may seize and sell personal property to pay such taxes. He is a member of the county board of review. In any county having as a county seat a city of the first, second or third class, the county treasurer acts as city treasurer.² The annual salary varies from \$800 to \$11,000, with an additional sum of six per cent. on all delinquent taxes collected.³

¹ This feature is practically obsolete.

² See §§ 132, 137 (5).

³ The treasurer of Marion County receives for his services as city treasurer \$8500, with five per cent. on all delinquent taxes collected. His total fixed salary is \$19,500.

101. The Recorder is elected for a term of four years, and no person is eligible more than eight years out of twelve. In every community there are many contracts and other legal instruments, the proof of which ought not to depend upon any oral statement or even upon a written statement in the hands of the interested parties. The public has an interest in knowing, and is entitled to a knowledge of, the facts. For these reasons an office is created and maintained at public expense in which important documents may be recorded and to which all have access. The following is a partial list of the instruments which this officer is bound to record: deeds for the conveyance of land; leases for a longer period than three years; mortgages and satisfactions of mortgages; notices of liens; assignments; certificates of incorporation; articles of association; maps and plats of the boundaries of the county and of the townships and cities within the county; articles of apprenticeship; certificates of dentists; descriptions of fence-marks and of ear-marks and brands of live stock. In order that these facts may be readily ascertained by any one, he is required to keep complete indexes of all records. To preserve an historical record of the life and events of the county a file of the county newspapers is kept in his office. The annual salary ranges from \$700 to \$12,500, and thirty per cent. of the fees in excess of the fixed salary.

102. The Sheriff is elected for a term of two years, and no person is eligible more than four years in a period of six. The office of sheriff had its origin in England many centuries ago, when that country was divided into shires. The reeve was an official of great importance who called the people together in the shire-moot or meeting, presided over its sessions and executed its decrees; whence came the name shire-reeve or sheriff. The office has been shorn of many of its duties and much of its dignity; but it is yet the chief executive office of the county and of the

courts. The sheriff is a conservator of the peace within the county. It is his duty to arrest with or without a warrant persons committing crime or misdemeanor within his view; and to suppress all breaches of the peace within his knowledge—having authority to call to his aid the *posse comitatus*, or the power of the county.¹ If this force is not sufficient, he may call upon the governor of the State. If the militia of the State cannot put down the disorder, the governor may call upon the President of the United States, whose duty it is to employ the national forces to suppress insurrection. The sheriff is also required to pursue and commit to jail all felons, and for this purpose he may go into any county in the State. He is charged with the keeping of the jail and the care of the prisoners² and must protect them from mob violence. He attends and preserves order in the circuit, criminal and superior courts; he serves all processes issued to him by these courts, either in person or by deputy, and executes all decrees; he transfers all prisoners under death sentence to the State prison for execution.³ He acts as deputy to the sheriff of the supreme court. He performs certain duties in relation to elections. The annual salary attached to the office varies from \$1000 to \$13,000.

103. The Coroner is elected for a term of two years, with no restriction on his re-eligibility. This office is also very old, and was created as a sort of check upon the power of the sheriff.⁴ The coroner held court in the name

¹ Whoever without valid excuse refuses or neglects to assist any sheriff or any other conservator of the peace in the execution of his office or in the service of any process is liable to be fined not more than \$100 nor less than \$5. See *Revised Statutes*, sect. 2041.

² In counties containing a population of 50,000 or more, the sheriff appoints a *prison matron* to take charge of all female prisoners and all children under fourteen under arrest.

³ Prior to 1889 it was the duty of the sheriff to inflict the death penalty when judgment had been pronounced.

⁴ Coroner is derived from *coronarius*, the representative of the *corona*, or crown.

of the king. Only a remnant of his great power and honor remains: when necessary he serves writs commanding the arrest of the sheriff, and in case of a vacancy in the office, or in case the sheriff is interested, absent, or otherwise incapacitated, he acts as sheriff. The principal duty of the coroner is to hold an inquest or examination upon the body of any person supposed to have come to his death by violence or casualty. He has power to summon witnesses to ascertain all the facts, and renders his verdict in writing. If he finds that a crime has been committed, he may issue a writ commanding a constable to arrest the person accused of the crime, and to take him before a justice of the peace. The justice may commit the accused person to jail to await trial by the circuit court. For compensation the coroner receives the fees of his office.¹

104. The County Assessor is elected for a term of four years, and no person is eligible more than eight years in a period of twelve. He must be a resident freeholder and householder of the county for at least four years prior to his election. It is his duty to examine the books of the township assessors and to assess and enter the true valuation of all property omitted by them. He also advises and instructs them as to their duties, and visits each assessor in April or May. He is a member of the county board of review. An annual meeting of all the county assessors of the State is held under the direction of the State Board of Tax Commissioners. The compensation varies from \$500 to \$1900.

105. The Surveyor is elected for a term of two years, and is re-eligible without restriction. The purpose of this office is to secure accuracy in the survey of lands and efficiency in the construction of roads and drains. He has charge of the maps, books, charts and papers belong-

¹ In Marion county he receives a salary of \$3000 and no fees.

ing to his office. Whenever an owner of land after due notice requests another survey of his land the surveyor is required to make it and to re-locate and perpetuate the corners of it and to preserve the record of his survey. He is *ex officio* a drainage commissioner; he makes the necessary surveys for drains; oversees their construction; and superintends their repair. His compensation is four dollars per day for the time actually engaged.¹

106. The County Superintendent is elected by the township trustees² for a term of four years, subject to dismissal for cause by the board of commissioners. No person is eligible to this office unless he holds at the time of his election a thirty-six-months' license, a sixty-months' license, a life license or a professional license to teach in the public schools. There is no restriction upon his re-eligibility. He has general supervision of the schools of the county except the city schools. It is his duty to grant teachers' licenses to all applicants when their fitness has been ascertained by examination. He may revoke such licenses for causes specified in the statute. He is required to visit each school annually; to encourage and attend teachers' institutes; to render opinions in controversies arising under the school law; to make annual reports to the State superintendent and to the bureau of statistics embodying the enumeration of children of school age and statistical information relative to the school fund, the condition of school property, and to the general progress of education. He acts as the medium of communication between the State superintendent and subordinate school officers. It is his duty to make requisition for the text-books needed in the county and to see that a sufficient number are on hand. He is authorized to inspect the books of county

¹ The surveyor of Marion County receives a stated salary of \$2400.

² In case of a tie, the deciding vote is cast by the county auditor, who acts as clerk.

officers having the care of the county school funds and may institute suit to recover moneys due to the school fund. He is a member of the board which appoints the truant officers of the county.¹ His compensation is four dollars and fifty cents for every day actually employed in the discharge of his duties.

107. Two Jury Commissioners for each county are appointed by the judge of the circuit court to serve for one year. They must be freeholders and voters of the county and of opposite political faith. From the names of the legal voters and citizens of the United States on the tax-duplicate of the county they select and deposit in a box the names, written on separate slips of paper of uniform color and size, of twice as many persons as will be required by law for grand and petit jurors for the ensuing year. They are required to exclude the name of any person who has acted within one year as a juror, who is not either a freeholder or householder of the county, or who is interested in a case or has one pending which may be tried by a jury chosen from these names. The box is locked and delivered to the clerk and the key held by the commissioner who differs from the clerk in politics. Within the week preceding the commencement of any criminal or circuit court the clerk shakes the box and in the presence of the commissioner draws the names of six persons, who are summoned as the grand jury; he also draws the names of twelve other persons, who constitute the petit jury.²

No person may be appointed a jury commissioner who is a party to or is interested in a suit pending. Any one appointed to this office who fails to accept it or to perform its duties, is guilty of contempt of court and may be punished by a fine of any sum from \$5 to \$100. The pay of each commissioner is three dollars per day for the time actually employed.

¹ See Chapter VI., on Education.

² After a petit jury has served four weeks the court may discharge it and direct the clerk to draw a new jury.

Jurors are paid two dollars per day while in actual attendance and five cents for each mile traveled.

108. A Probate Commissioner may be appointed by the judge of the circuit court, in any county having a voting population of 10,000, whenever the probate business of the court requires it. He has jurisdiction of the proof of wills, of guardianships and of the settlement of estates. He has power to administer oaths, take acknowledgments and do all other acts legally pertaining to the duties of his office. His salary is fixed by the judge, and he serves for a term of four years.

109. Master Commissioners, at least one for each county, are appointed by the judge of the circuit court. They have power to administer oaths, take depositions, and to sell real estate when the court orders a sale to be made.

110. A Short-hand Reporter shall be appointed by the judge of any circuit, criminal or superior court to prepare a complete record of the evidence and proceedings of any trial.

111. The Board of County Charities and Corrections.—In each county the judge of the circuit court may and, upon the petition of fifteen reputable citizens, is required to appoint six persons, not more than three of whom can be of the same political party and at least one of whom must be a woman, who constitute the Board of County Charities and Corrections to serve without compensation. It is their duty, at least once in each quarter, to visit and inspect all charitable and correctional institutions of the county which receive public support; and to report to the county commissioners, to the judge of the circuit court and to the Board of State Charities.

112. Boards of Children's Guardians.—In each county there may be appointed by the circuit court a board of children's guardians, composed of six persons. It has the care and supervision of neglected and dependent

children, and with the approval of the court may commit such children to orphan asylums, or indenture them as apprentices without the consent of the parents. The county commissioners may provide and maintain a suitable house for the accommodation of the children placed under the control of the Board of Children's Guardians. The board is required to report to the Board of State Charities. The members serve without compensation.

113. The Superintendent of the County Asylum is elected by the county commissioners for a term of two years. Every county is required to care for the poor and indigent lawfully settled in it. When a county may deem it advisable an asylum for the poor may be established. It is the duty of the superintendent to receive those who may become public charges, employ and support them. He reports semi-annually to the county board the time and manner of the admission of paupers, their health, ability to labor, the results of their labor and the expenses incurred.

114. The County Physician.—The board of commissioners may contract with one or more physicians to attend upon prisoners confined in the jail or paupers in the asylum, or to attend upon the poor generally in the county.

115. The County Board of Review is composed of the auditor, treasurer and assessor of the county and two freeholders appointed by the circuit judge. Their duty is to review the assessments and equalize the valuation of all real and personal property in the county for the purpose of making the burdens of taxation equal throughout the county.

THE TOWNSHIP.

116. The Origin of the Township is remote. It may be traced back to our Anglo-Saxon ancestors, while they still lived on the Continent. Several families there grouped

themselves about a spring or in some other favorable location. To protect themselves against enemies they constructed a fence or hedge called a *tun*: they gave the name *tun-scipe* or township to the village and the surrounding country containing their fields and pastures.

'This, the simplest of our governmental institutions, is the oldest. But in the newer States the State government was first established, and it has the power to create or change these civil subdivisions. The county commissioners are authorized to divide the county into as many civil townships as the convenience of the citizens may demand. They are required to conform the boundaries of such townships to those of congressional townships as nearly as practicable.¹ Each civil township is a body politic and corporate and may make contracts, sue and be sued.

117. The Township Officers² are a township trustee, three members of the advisory board, an assessor, one or more justices of the peace, an equal number of constables, a supervisor for each road district and a director for each school district. The supervisors are elected biennially by the voters of the road district; the school directors are elected annually by the voters of the districts. All other officers are elected at the general elections, and take possession of their offices ten days thereafter, each for a period of four years.

118. The Township Advisory Board consists of three resident freeholders and qualified voters of the township elected for a term of four years. The board holds an annual meeting in September, when the trustee is required to attend and submit a detailed and itemized estimate of

¹ A congressional township consists of a tract of land six miles square. It was created by the government survey; it has no political life; it was devised to make it easy to identify the location and description of lands.

² See *Art. VI. Sect. 3* and *Art. VII. Sect. 14*.

all expenditures for which appropriations are asked for the ensuing year. It is the duty of the board to consider the proposed estimates and to concur in them or reject them in whole or in part. No debt, not embraced in the annual estimate and allowed, can be created without the authority of the advisory board. In January the trustee is required to make an annual settlement with the board and present a complete report of all the receipts and expenditures of his office during the past year. The board has power to borrow money and to fix the rates of taxation for township purposes and must certify them to the county auditor. Any taxpayer has the right to appear at any session of the board and be heard as to the advisability of any estimate, levy, or the approval of the trustee's report.

119. The Township Trustee is the most important officer of the township, and no person is eligible more than four years in eight. He has quasi-judicial power in the auditing of the accounts of the supervisor and the examination and settlement of all other accounts against the township. But it is in his executive or administrative capacity that he exercises his chief authority. His powers may be considered under five subdivisions: financial affairs, roads, elections, the poor and schools.

(1.) *Financial Affairs*.—The trustee superintends the pecuniary concerns of the township. The county treasurer collects the amounts levied by the advisory board and upon the warrant of the auditor pays to each trustee all the money belonging to his township. The trustee examines and settles all claims against the township and keeps accounts so as to show the receipts and expenditures of each fund and of the whole revenue. He must register and number the township orders or warrants, showing the fund on which each is drawn, the number, date and amount of the warrant, to whom issued, for what purpose and when redeemable; and also a complete statement of

all outstanding indebtedness of the township. His records and books must always be open for inspection. The annual report which he submits to the advisory board is held by the chairman subject to inspection by any taxpayer. When final settlement is made the trustee is required within ten days to file a copy of his report, with vouchers, in the office of the county auditor, and within four weeks from the time of filing he must publish it in newspapers of the county.

(2.) *Roads.*—The trustee is authorized to re-divide his township into road districts upon the proper petition. He is also fence-viewer, and is required to see that drains are repaired and kept open.

(3.) *Elections.*—It is his duty every six years to make an enumeration of all the male inhabitants over twenty-one years of age within his township. The list of the names and ages of all such inhabitants is filed in the auditor's office.¹ The apportionment of senators and representatives is based upon this information. The trustees are inspectors of elections in their precincts and are authorized to appoint the election judges.²

(4.) *The Poor.*—The township trustee is "overseer of the poor" within his township and when discharging such duties he is so designated. The importance of having honesty and efficiency in the administration of this office is just being appreciated. In 1896 there were in Indiana more than 71,400 persons who received out-door relief from the trustees; and the amount of money distributed

¹ Mistakes are corrected by the auditor, who certifies to the auditor of State the aggregate number in the county. The auditor of State certifies a tabular statement of the number in each township and county and the total number in the State. He publishes the same and submits it to the General Assembly at its next session.

² Their responsible duties in this connection are more fully described in Chapter V., on Elections.

aggregated \$355,255.¹ It is his duty to inquire into any complaint and to see that the poor are not ill-treated and are sufficiently provided for by those having them in charge. He must keep a list of those who are not able to care for themselves and who are likely to be entitled to aid. He is required to pay the expenses of the burial of ex-Union soldiers and soldiers of the Spanish-American War, in some other place than the pauper cemetery, when sufficient means are not left by the deceased. Every overseer and every one administering relief from the public funds to the poor, sick and needy, not inmates of any institution, must keep a record of the full name, age, sex and nationality of every person receiving aid, with the date and amount of money or value of goods furnished. If relief is given for the use of others, a similar record of each recipient must be given. The reason for giving aid must be shown in each case. Two copies of this record are filed in the office of the auditor every three months; one copy is sent to the board of State charities; the other is retained by the auditor, and the commissioners cannot lawfully pay out money for relief until such a record is made. A recent law has further attempted to restrict extravagance and carelessness by making the burden of the expenditure for this purpose fall directly upon the township which expends it and not upon the county as a whole.

(5.) *Schools*.—The trustee of the civil township is also the trustee, treasurer and clerk of the school township. "The two corporations are as distinct and separate legal entities as if they existed in different territory, had an entirely different set of officers, and had no connection in any way with each other."² The trustee receives the

¹ See *Report of the Board of State Charities* (1897), pp. 77-79. The total expenditure made by the counties in 1896 for the aid of the poor amounted to \$973,655. See *Report of the Bureau of Statistics* (1895-96), p. 339.

² See 62 Ind. 230, *Utica Township, Clark Co., vs. Miller et al.*

school revenue apportioned to his township, keeps it separate from the funds of the civil township and applies it to the purposes specified. He employs teachers, establishes and furnishes school-houses and provides for the management of schools and of all school property. Each year between April 10 and April 30 he takes an enumeration of all unmarried persons between the ages of six and twenty-one, resident in his township, town or city. Separate lists of whites and colored are kept. This list includes the names of parents or guardians and designates the congressional township in which each resides. A copy of the enumeration is reported to the county superintendent. He has the care and custody of the lands belonging to the congressional township fund; and may with the consent of the voters of the township lease them for seven years or sell them. He has charge of the township library and is accountable for its preservation. The compensation of trustees is two dollars per day for the time actually employed.¹

120. A Township Assessor is elected for four years, and no person is eligible more than four years in eight. It is his duty to list and assess property for taxation and to make a return to the auditor of the property so listed. The assessment of real estate is made every four years. In townships having a population less than 5000, the compensation of assessors is two dollars and fifty cents per day for the time actually employed. In other townships it is graded from \$200 to \$1800 annually.

121. A Supervisor for each road district is elected by the voters thereof for a term of two years. Any person liable to perform highway labor who fails to accept the office of supervisor when duly appointed must forfeit the sum of

¹ In townships having between 25,000 and 75,000 inhabitants he receives annually from \$1000 to \$1500; in townships having between 75,000 and 100,000 inhabitants, \$1800; in townships having over 100,000 inhabitants, \$2500.

six dollars for the benefit of the road district; but no person is compelled to serve more than four years in six. It is the duty of the supervisor to carry into effect all orders of the county commissioners touching highways and bridges within his district and to keep them in good repair. To this end he may call out all able-bodied men except those exempted by law and require their services during not less than two nor more than four days in each year. The supervisor is responsible for all tools belonging to the road district. It is also his duty to arrest and prosecute all violators of the game and fish laws. His compensation is one dollar and a half for each day of service.

122. A School Director is elected annually on the first Saturday in October by the voters of the school district. In case of a failure to elect, the trustee may appoint one. The director or any five electors may call a special meeting of the voters. Subject to the discretion of the trustee, the voters at this meeting may decide what branches in addition to those prescribed by law shall be taught and the length of the school term; direct repairs of the school-house; and petition the trustee for the removal of the school-house or for the erection of a new one. All taxpayers except married women and minors are entitled to vote. This is the nearest approach to a pure democracy of any of our political organizations. The director presides at all school meetings, records their proceedings and communicates with the trustee. He has charge of the school-houses and property. He visits and inspects schools and may exclude refractory pupils subject to appeal to the trustee.

123. The Justices of the Peace are the judicial officers of the township, and the peace and good order of the community are, probably, more dependent upon them than upon the judges of the supreme court. Their history in England can be traced back to the twelfth century, when the king appointed knights of the shire to perform certain

police duties in the preservation of the peace. Later, judicial powers were transferred from the sheriffs to these officers; and they were regarded with great respect and honor. The number for each county is determined by the board of commissioners; but it must not exceed more than two for each township, with one in addition for each town and one in addition for each city therein. Their authority is limited in civil cases to their townships; in criminal cases to their counties respectively. They have concurrent jurisdiction with the circuit courts to try and determine suits founded on contracts or tort¹ where the debt or damage claimed or the value of property sought does not exceed \$200. They have no jurisdiction whatever in any action of slander, or for malicious prosecution, or for breach of marriage contract, nor where the title to land is in question, nor where the justice is related by blood or marriage to either party. They have power to subpoena witnesses and compel attendance. If either party demands a jury, it must be summoned. Either party may appeal from the judgment of any justice to the circuit court within thirty days. They are empowered to issue all writs necessary to execute their decrees. They may also issue search warrants, writs of *ne exeat*,² and writs of attachment when the amount claimed does not exceed \$200. They issue warrants for the arrest of persons charged with the commission of felony or misdemeanor. In criminal cases they have exclusive original jurisdiction in all cases where the fine can not exceed three dollars; concurrent jurisdiction with the circuit and criminal courts to try and determine all cases

¹ A tort is a wrong or injury inflicted upon a private person, for which the injured party may obtain compensation.

² A writ of *ne exeat* is an order for the arrest of a person who is about to leave the State without performing a contract. The defendant may be admitted to bail.

of misdemeanors punishable by time only ; and they have authority to make examinations in all cases. Any prisoner adjudged a punishment may appeal to the criminal or circuit court within ten days. Justices preside in examinations as to the insanity of persons. They also have authority to solemnize marriages within their respective counties.

124. The Constable also holds a very old office. The number of constables in each township is equal to that of the justices. They are the executive officers of the justices' courts, attending trials, preserving order, enforcing all legal orders and levying executions. They are conservators of the peace and have power to seize and take before the nearest justice all who violate the law in their presence, and there charge them with such violation. They have power to act throughout their respective counties and may in the pursuit of a fugitive from justice arrest him in any county where he may be found. They have the same right that the sheriff has to call upon the citizens for aid. It is their duty also to enforce the game and fish laws.

ADDENDUM.

The Trial of Cases in the Courts.

A *case* is a contested question before a court—a suit or an action. A *trial* is a judicial examination of the issue. There are two parties to every action ; the one making the complaint is known as the *plaintiff* ; the adverse party is the *defendant*. There are two classes of cases. A *criminal case* is undertaken by the State as plaintiff and prosecuted for the punishment of a person charged with a public offense ; the entire people of the State are the injured party, because the peace and dignity of the State have been violated. All other cases are *civil cases*. There are two kinds of public offenses. All crimes and offenses punishable with death or imprisonment in the State prison are called *felonies* ; all other offenses against the law are called *misdemeanors*.

(a) *Procedure in Criminal Cases*.—Any justice, on complaint

made on oath charging the commission of any felony or misdemeanor upon any person, must issue a warrant for his arrest and cause him to be brought before his court for trial or examination. When the accused¹ has been arrested by the proper officer he is taken before the justice. If the justice has jurisdiction,² he proceeds to try and determine the case. Either the accused or the State may demand a jury; otherwise the case will be decided by the justice alone. The defendant may appeal from the verdict of the court to the criminal court or to the circuit court.

If the offense is serious, if the punishment which the justice may assess is inadequate to it, and if the justice thinks the evidence sufficient, he may hold the accused to bail for appearance before the proper court or commit him to jail in default of bail.³ But this does not determine his guilt or innocence. It is merely a preliminary examination to hold one against whom there is suspicion.

The more serious criminal cases are tried in the criminal courts, or, where such do not exist, in the circuit courts. Before the commencement of any term of these courts a *grand jury* is summoned.⁴ This jury is composed of six men. They must inquire into the case of every prisoner in the county jail on a criminal charge and not indicted, of every person under bail on a criminal charge and not indicted and into violations of the criminal law generally.⁵ Jurors having knowledge of crime must disclose it to the jury and they must preserve secrecy as to their proceedings. They may compel witnesses to attend and testify. The prosecuting attorney appears before the grand jury to give information or advice, or to question witnesses; but no officer or person can be present when the jury

¹ See *Art. I. Sects. 13-17, 19, 27, 29, 30* for the privileges of persons accused of crime.

² See § 113.

³ If he is confined in jail, he or his friends may ask for a writ of *habeas corpus* to test the justice of his restraint. This writ may be granted by the circuit, superior or criminal courts, or by the judges of these courts in vacation. It is an order commanding the officer restraining a person, to have that person before the court or judge at the place and time specified. The party must be produced; the judge hears and determines the case and, if there is no legal cause for restraint or for the continuation thereof, the prisoner is discharged.

⁴ See § 107.

⁵ They also investigate the misconduct of county officers and the management of the public prisons and poor-houses of the county.

expresses its opinion or votes. If, after hearing the testimony, five of the jurors concur in the opinion that the evidence against any person is sufficient to warrant his arrest and trial, the formal accusation of the person of the crime or misdemeanor is signed by the prosecutor and indorsed by the foreman of the jury as "A true bill." This is called an *indictment*.¹ When an indictment is found or an information is filed the clerk of the court issues a warrant to the sheriff, whose duty it is to pursue and arrest² the accused in any county and commit him to jail or hold him to bail.³ After the arrest of the accused, if he requests a copy of the indictment, it must be furnished him. When the case comes before the court for trial the defendant may move to quash or set aside the indictment. If the court⁴ overrules the motion, the defendant is then arraigned by the reading of the indictment or the information to him by the clerk. He is required to enter immediately his plea. If he pleads "guilty," he is sentenced at once; if he pleads "not guilty," the trial proceeds. In case he is too poor to employ an attorney the court may assign one to defend him. The State is represented by the prosecuting attorney. Every criminal action must be tried publicly in the county where the offense was committed, unless the defendant can show that he cannot receive a fair trial because of bias and prejudice. In that case a change of venue may be granted by the court. He has also a right to a trial by an impartial jury of twelve men; but the defendant and the prosecutor with the assent of the court may submit the trial to the court, unless the crime is a capital offense. In the selection of the jury the defendant may, without assigning a cause, object to twenty jurors in prosecutions for capital offenses; to ten jurors in prosecutions for offenses punishable by imprisonment; and to three jurors in all other prosecutions. The prosecutor has the same number of peremptory challenges. Each party may also challenge for cause any number of jurors, and the

¹ Public offenses except treason and murder may, under some circumstances, be prosecuted upon "an information" filed by the prosecuting attorney and based upon the affidavit of some reputable person. The General Assembly may modify or abolish entirely the grand jury system. See *Art. VII. Sect. 17*.

² An *arrest* is taking a person into custody, that he may be held to answer for a public offense.

³ The judge fixes the amount of bail, which must not be excessive. See *Art. I. Sect. 16* and *Art. I. Sect. 17*.

⁴ The word "court" used in this way signifies the judge of the court.

judge must decide whether the cause alleged is a good ground for the exclusion of the jurors. After the jury has been empaneled and sworn the prosecuting attorney presents the case of the State and offers the evidence to support it. The defendant or his counsel then states his defense and supports it with his evidence. Each party may then offer rebutting testimony. The usual arguments by the attorneys and the charge to the jury follow. The judge must inform the jurors that they are the exclusive judges of all questions of fact, and that they have the right also to determine the law. The jury may decide the case in court or they may retire to deliberate. When they have unanimously agreed upon a verdict, they return and render it in open court. If the defendant is guilty, they state the amount of the fine and the punishment to be inflicted, and the court renders judgment accordingly. Conviction or acquittal is a bar to another indictment for the offense charged or for any lower degree of that offense.¹ If sufficient cause can be shown, the court may grant a new trial—that is, a re-examination of the issues in the same court. The parties are in the same position as if no trial had been held. In case the jury fail to agree upon a verdict there is a mistrial and the same ground must be gone over again. Exceptions to the decisions of the judge may be taken and an appeal made to the appellate court or to the supreme court within one year.

(b) *Procedure in Civil Cases.*—In civil actions there are no preliminary examinations, although some cases may be brought originally in the justices' courts.² Civil actions are usually commenced by filing a *complaint* in the office of the county clerk. This must contain the name of the court, the names of the parties to the action, a statement of the facts constituting the cause of action and a demand of the relief to which the plaintiff thinks himself entitled. A *summons* is thereupon issued under the seal of the court directed to the sheriff, giving notice to the defendant of the commencement of the suit. The clerk is required also to give notice of all civil actions brought against parties who are non-residents or absent from the State, by publication in some newspaper. There are two kinds of issues—issues of *law* and issues of *fact*. The former are tried by the court, the latter by the court, by the petit jury or by a special jury.³ But a jury trial may be waived by the parties in all civil actions. The number of jurors may be any number from

¹ See Art. I., Sect. 14.

² See § 123.

³ See Art. I., Sect. 20.

three to twelve. If the parties cannot agree upon the number, it is twelve. The statement of the case and the submission of the evidence, arguments and instructions are the same as in criminal cases. The verdict of the jury is either "For the plaintiff" or "For the defendant." Judgments against the defendant are enforced by the execution of writs issued to the sheriff, who must levy if necessary upon his property and sell it to pay the judgment. New trials may be granted and appeals taken as in criminal cases.

CHAPTER IV.

MUNICIPAL GOVERNMENT.



125. Municipal Corporations.—County government is sufficient for the needs of a community which is sparsely settled and little developed. As the varied industries unfold and as transportation facilities multiply, the population naturally increases and congregates in towns and cities. Thence it follows that many new problems arise as to the preservation of health, the maintenance of order, the protection from fire, the construction of water-works, the improvement and lighting of streets, the opening of parks, and many other matters promoting the public convenience. Because the needs of communities differ widely on account of diversity in size, location and people, these problems can be solved satisfactorily only by the people who are most deeply interested in them. In consequence of such conditions the State has created special local governments. Such governments are known as municipal corporations. They have more extensive powers than those of counties, and, as the cities increase in size, the number and scope of these powers increase. While municipal corporations co-operate slightly in the administration of general State laws, their chief function is the administration of local affairs.

In general terms the powers possessed by municipal corporations are as follows :

“1. Those granted in express words.

“2. Those necessarily or fairly implied in or incident to the powers expressly granted.

“3. Those essential to the declared object and purposes of the corporation—not simply convenient but indispensable.”

These powers are subject to the constitutional limitation that no political or municipal corporation shall ever become indebted in any manner or for any purpose to an amount exceeding two per cent. on the value of the taxable property within the corporation.¹

126. Classification of Municipal Corporations.—In some States municipal corporations are divided according to population into hamlets, villages, towns or boroughs, and cities of different classes and grades. In Indiana the popular use of the terms “village,” “town” and “city” is somewhat vague; but the only municipal corporations authorized by law are towns and cities. The classification is not so clearly made as in some States. There is no minimum population required for towns; and while there is a minimum required for cities, a town having a much greater population may or may not become a city, as the majority of its voters prefer. The term village is popularly used to designate a community or neighborhood where the people are gathered into a small settlement which may or may not have a town government. If the majority of the voters of a small community desire it, they may be incorporated into a town with a government distinct from the township. If the majority of the voters of a town having over 2000 inhabitants desire it, the town may be incorporated into a city. Incorporation is made under general State laws which define the form of government and the powers enjoyed under it. The Constitution requires that all laws shall be general and of uniform application throughout the State, where a general law is applicable.

Cities are divided into five classes, according to the

¹ See *Art. XIII., Sect. 1.*

population at the last preceding United States census, as follows :

First Class.—Cities having a population of one hundred thousand or more.

Second Class.—Cities having between forty-five thousand and one hundred thousand inhabitants.

Third Class.—Cities having between twenty thousand and forty-five thousand inhabitants.

Fourth Class.—Cities having a population between ten and twenty thousand.

Fifth Class.—Cities having a population less than ten thousand.¹

THE TOWN.

127. Incorporation and Organization.—When the people of a community desire a government of larger powers than those possessed under the township organization, they take the proper steps prescribed by statute to attain that end. It is first necessary to procure an accurate survey and map of the territory to be included within the town limits. A correct census of the people residing within the district must also be taken. A petition signed by one-third of the qualified voters of the district is then presented to the county board of commissioners. If satisfied that the requirements have been complied with, they declare that the territory shall be an incorporated town with the assent of the voters ; and they order an election to determine that point. If a majority of the electors favor incorporation, the county commis-

¹ The present classification is as follows :

First Class : Indianapolis.

Second Class : Evansville and Fort Wayne.

Third Class : Anderson, Muncie, New Albany, South Bend and Terre Haute.

Fourth Class : Elkhart, Elwood, Hammond, Jeffersonville, Kokomo, Lafayette, Logansport, Marion, Michigan City, Richmond, Vincennes.

Fifth Class : Sixty-five cities.

sioners make an order declaring the town to be incorporated. It is provided that the town shall then be divided into not less than three nor more than seven wards and that an election shall be held to fill the town offices. The elective officers are one trustee from each ward, a clerk and a treasurer.¹ The inspectors must file with the county clerk a certified statement of the names of the persons elected. The trustees select one of their number as president.

128. The Trustees are regularly elected for a term of four years, one from each district, by the voters of the whole town. They are ineligible to re-election to the same office in any period of eight years. They are the most important officers of the town. They have power to make and establish such by-laws, ordinances and regulations, not repugnant to the laws of the State, as may be necessary to secure the following ends: the purchase of property for the use of the town; protection against fire; the abatement of nuisances; the preservation of the public health; the prohibition of gambling; the maintenance of peace and order; the prevention of vice and immorality; the licensing and regulation of auctioneers, peddlers and vendors of intoxicating liquors; the construction and improvement of streets, sidewalks and sewers; the supply of water; the lighting of streets;² and the erection of school-houses. They fix the annual tax levy and the taxes are collected by the county treasurer and paid over to the town treasurer.

They also elect three school trustees for a term of three years, one retiring annually. This school board has charge of the educational affairs of the town.

¹ The offices of clerk and treasurer may be held by the same person.

² No ordinance for the purchase or establishment of any water-works or lighting-plant can go into effect until approved by a majority of the votes cast at a regular or special election. In order to sell such a plant a *referendum* must be had, if one hundred freeholders and resident taxpayers petition for it.

129. The Administrative Officers are elected annually. The clerk has charge of the books and papers of the trustees and keeps a record of their proceedings. He sees to the publication of the ordinances and gives notice of town elections.

The treasurer has charge of the town funds and accounts. He pays out money only upon the warrant of the president of the board attested by the clerk. He is required to make an annual settlement with the trustees, who must publish a financial statement.

The marshal, who is appointed by the town trustees, has the powers and duties of a constable in enforcing the by-laws and ordinances of the town. The town trustees also appoint the street commissioners and the chief of the fire force.

There is no judicial department distinct from that of the township. Justices of the peace have jurisdiction over violations of the ordinances. The salaries of the town officers are fixed by the trustees.

An incorporated town may be dissolved if a two-thirds majority of the voters favor its dissolution, provided the total vote cast equals four-fifths of the entire number of voters.

THE CITY.

130. The City Government.—It will occur even to a casual observer that there is a close resemblance between the form of the city government and that of the State. The charter¹ corresponds to the Constitution; the mayor, to the governor; the administrative boards and officials, to the executive officers of the State; the city council, to the General Assembly; and the city courts to the State judiciary.

¹ In this State special charters are not granted to cities. The charters of all cities are derived from the general statutes.

Mr. Bryce has pointed out that the functions of city government are tripartite: (*a*) to assist the central or State government in administration, as in enforcing the police laws, collecting taxes, and in the execution of certain protective laws; (*b*) to do those things which properly pertain to local matters and which are regulated by local laws, subject to the general laws of the State, such as providing for education, caring for the poor and for the public health; (*c*) to perform duties of a purely business nature, such as pertain to all kinds of public improvements. The city is, in respect to the first and second functions, a political being; and in respect to the third, it may be considered a business corporation, in which the taxpayers are the stockholders, doing through public agents things which each might do for himself with greater cost and trouble.

131. The Organization of the City.—When a town has attained a population of two thousand it may be incorporated into a city, if a majority of the voters favor such action.¹ The city is thereupon divided into wards, the number and boundaries of which are determined by the trustees or council; except that the number cannot be less than three. The number and boundaries of the wards of cities are to remain unchanged until 1907. After that time changes must not be made oftener than once in six years, unless they be made necessary by the annexation of new territory, and then the ordinance must be passed by a two-thirds vote of all the members of the common council. The chief difference between smaller cities and towns is in the number of officers; their powers are very similar. The larger cities differ from the smaller not only in size, but also in the complexity of the government.

¹ The charter of any city may be surrendered and annulled by order of the judge of the circuit court upon the petition of two-thirds of the resident taxpayers twenty-one years old. The city is then to be organized and governed as an incorporated town,

The discussion of this subject must be confined to the general features of city governments. The varied details cannot be given here. A copy of a city charter should be secured and be made the object of an interesting and profitable local study.

132. The Elective Officers of cities are a mayor, a city judge, a city clerk, a city treasurer and councilmen—one councilman being elected from each ward by the voters thereof—and councilmen-at-large (one-half as many as there are wards), being elected by the voters of the whole city. However, it is further provided that in cities of the fifth class, the powers and duties of the city judge shall devolve upon the mayor; that in cities of the first, second and third classes which are county seats, the county treasurer shall perform the duties of the city treasurer; and that the number of councilmen-at-large in any city shall not be more than six nor less than two. The terms of all elective officers are four years,¹ and no person is eligible to hold the same office more than four years in any period of eight years.

In the event of a vacancy in the office of city judge, city clerk or city treasurer, it is the duty of the mayor to fill such vacancy by appointment, subject to the approval of the common council. If a vacancy occur in the office of mayor, the city controller, in cities having such office, acts as mayor; in other cities, or in case of the death, resignation or disability of the controller, the city clerk acts as mayor.² Should there be no person as provided by law to fill such a vacancy, it is the duty of the common council to appoint one of its members to act as mayor temporarily,

¹ The officers elected in November, 1905, will serve until the first Monday in January, 1910, but their terms will not begin until the expiration of the terms of their predecessors who were elected under former laws.

² In such cases some other person must be appointed by the acting mayor, to act as controller or city clerk.

until at a special meeting the common council elects a suitable person to fill out the unexpired term of the mayor. In the event of a vacancy in the office of councilman, the common council fills the vacancy.

133. The Common Council is the legislative body of the city. The law requires the council to meet at least once a month, and oftener if so provided in their rules. A majority of all the members-elect constitutes a quorum. In cities of the first and second classes the council chooses a presiding officer from its own members. In cities of the third, fourth and fifth classes the mayor presides at the meetings of the council, but has no vote except in case of a tie. The council may by a two-thirds vote expel any member for violation of official duty. They have authority to supervise and investigate all departments and officers of the city government.

The legislative authority of the common council is in general the same as that of the town trustees, except that their powers include a greater variety of subjects, are more explicitly enumerated and are more extensively used.¹ This authority is exercised through the passing of ordinances, orders, resolutions and motions. But none of these can become a law or be operative until it has been signed by the presiding officer and approved in writing by the mayor, or, in case of his veto, repassed by a two-thirds vote of the council. Every law imposing a penalty for a violation of it must be published, except in case of urgent necessity, when proclamation by the mayor and posting in public places are sufficient. All ordinances must be recorded by the city clerk. No money may be paid out unless an appropriation has been made by ordinance for such purpose.

134. The Executive and Administrative Authority.—Cities differ from towns as to the form of government, in

¹ See *Acts of 1905*, chapter 129, § 53, for an enumeration of the general powers of the common council.

the concentration of greater power and responsibility in the hands of the mayor. It is believed by students of municipal problems that under such a system irregularities and mismanagement of the business of the city may be more easily prevented and more readily traced to a responsible source. The elective offices being few, the candidates are more closely scrutinized by the voters, and more competent and more scrupulous men are usually chosen.

The executive and administrative authority is vested in the mayor, the city clerk, the departments provided for in each class, and such other officers as may be appointed under the law.¹

135. The Mayor is the chief executive officer. It is his duty to see that the statutes of the State and the ordinances of the city are faithfully executed and enforced; to submit to the council annually a statement of the financial and general condition of the city; to make to the council such recommendations in writing as he may see fit; to call special meetings of the council when they are expedient; to perform such executive or administrative duties as may be prescribed by law; to exercise general supervision over subordinate officers; to fill vacancies in the offices of the city except in case of vacancies in the offices of mayor or councilman; to appoint the heads of departments² in cities of the first, second, third and fourth classes, and to appoint, in cities of the fifth class, a city marshal, a chief of the fire force and a street commissioner, and to make such other appointments as may be provided

¹ In cities of the fifth class the city marshal is in charge of the police force; a chief of the fire force (appointed by the mayor) in charge of the fire force; and the common council may, by ordinance, provide that committees of the council shall exercise executive functions when not in conflict with any of the provisions of the act.

² See § 137.

by law or by ordinance;¹ to sign all written contracts of the corporation, and all licenses² issued by any department; to approve or disapprove, in writing, all ordinances and resolutions of the council;³ to call together the heads of departments, except that of assessment and collection of taxes, for consultation and advice upon the affairs of the city at least once a month⁴ and to call upon the heads of all departments for reports; to appoint, whenever he thinks proper, three competent persons to examine the accounts of any department, officer or employe, and to report the result of such investigation.

The salary of the office of mayor is fixed by ordinance, and may be in cities of the first class from \$4000 to \$5000; in cities of the second class from \$3000 to \$4000; in cities of the third class from \$2000 to \$2500; in cities of the fourth class not to exceed \$1500; and in cities of the fifth class as determined by the council.

136. The City Clerk is the clerk of the common council, and keeps the records of its proceedings, and has charge of the city seal, and books, papers and documents entrusted to him by statute or ordinance. In cities of the fifth class he draws warrants upon the city treasurer for the payment of salaries and claims against the city.

137. The Executive Departments.—In the larger

¹ The mayor has power to suspend or remove any or all of such appointees, whether appointed by him or any of his predecessors by notifying them to that effect, and sending a message to the council giving his reasons for such removal.

² He has authority after reasonable notice and proper hearing to suspend or revoke such licenses.

³ In ordinances appropriating money or levying taxes, he may approve or disapprove separate items. All ordinances may be passed over his veto by a two-thirds vote of the council.

⁴ Rules may be adopted at such meetings for the administration of the affairs of the city, and for the selection, appointment and promotion of employes, but such rules must not be inconsistent with any law or ordinance.

cities, with their multiplicity of interests and functions, the amount of administrative work is so great that a single body, such as the common council, would be unable to perform that work promptly and efficiently. Therefore there have been established by law special departments, each having authority in some particular field. These departments are, in cities of the first, second, third and fourth classes, as follows: Finance, law, public works, public safety, assessment and collection, public health and charities; except that in cities of the fourth class there is no department of public safety, its duties being performed by the department of public works.¹

To prevent these separate departments working at cross-purposes there must be a certain degree of unity. This is secured by providing that the heads of all the departments, except the department of assessment and collection,² shall be appointed, and may be removed, by the mayor; and by requiring joint meetings of the heads of the departments at least once a month.³

Each department has power to appoint and remove any of its subordinates, and to prescribe for its government and management rules and regulations not inconsistent with any statute or ordinance, or any rule adopted by the departments at their joint meetings.⁴

Before the commencement of each fiscal year it is the duty of each department to submit to the joint meeting of the heads of departments an estimate of the amount of money required for the respective departments for the ensuing year, itemizing it as fully as possible. The controller also submits a similar estimate of expenditures not

¹ In cities of the third class, also, the common council may provide by ordinance that the functions of the department of public safety may be performed by the department of public works. In cities of the first and second classes there is also a department of public parks. See Subsect. 4 of this sect.

² See Sub-sect. 5 of this sect.

³ See § 135.

⁴ See § 135.

included in those of the different departments. After consultation the controller revises all of the estimates, and makes a report to the mayor, giving his estimate of the amount of money necessary for each department and for other expenses, together with an estimate of the necessary per cent. of taxes to be levied. At the next meeting of the common council the mayor presents this report with any recommendations he may see fit to make. The common council fixes the rate of taxation, and makes the necessary appropriations by items for each department, and for other city purposes. It may reduce any estimated item for any department, but cannot increase the same unless it be recommended by the mayor. If, later, an emergency should require further appropriations, they may be made on the recommendation of the controller by a two-thirds vote of the council. The departments cannot make contracts to any extent beyond the amount of money already appropriated by ordinance for the purposes of the department, except that the board of public works, with approval of the common council, may enter into contracts for the lighting or cleaning of the streets, or the supplying of the city with gas, water, steam, power, heat or electricity for a period not exceeding twenty-five years.

(1) The head of the *department of finance* is the city controller. He has in general the direction and management of the finances and accounts of the city. He prescribes the forms of accounts, and may inspect and revise the accounts of all other departments. His duties are similar to those of an auditor.¹

(2) The head of the *department of law* is the attorney and counsel of the city.² He has control of all law busi-

¹ See §§ 62 and 98.

² In cities of the fifth class the city attorney is appointed by the common council.

ness of the city. He is the legal adviser of the city officers in relation to their official acts and of the common council in matters of law submitted to him. He prepares all contracts, ordinances and legal documents required by the council. He prosecutes actions brought by the city and defends it in all suits brought against it.

(3) The *department of public works* has for its head a board of three members. The mayor appoints also a city civil engineer, who is subject to the board.¹ This board has charge of all property of the city, and may condemn and appropriate private property needed by the city for public use; it controls the platting, opening, repairing, cleaning and lighting of streets, and the construction of bridges. It has power to prepare and construct a system of drainage and sewerage; to purchase or construct and operate water works, gas works, electric light works and heating and power plants, for the purpose of supplying the city and its inhabitants with the use and convenience of such works;² to contract for the furnishing of these services by any individual or company, provided the contract is approved by ordinance of the common council; to authorize public service companies to use the streets and alleys, and to prescribe the terms and conditions of such use, provided the contract is approved by ordinance of the common council; to license the making of excavations to change or improve water courses within the city; and to perform other functions of a similar nature. In cities of the third and fourth classes this department has charge and management of all public parks and pleasure grounds. In cities of the first and second classes there is a separate board called the *department of*

¹ Except in cities of the fifth class, where he is subject to the orders of the council.

² In order to exercise such powers, authority must be conferred upon the board by a specific ordinance, and by the approval of a majority of persons voting at a general or special election.

public parks,¹ which has control of this work. In cities of the fifth class this power is vested in the common council.

(4) The *department of public safety* is under the charge of a board of three commissioners. They have the care, management and exclusive control of all matters relating to the fire and police force, the erection of fire escapes, the inspection of buildings, boilers, market-places, and food sold therein, pounds and prisons. They appoint a superintendent of police,² a chief of the fire force and all other officers necessary for the department. In cities of the third class, upon the adoption of an ordinance therefor, and in cities of the fourth class, without such an ordinance, the board of public works exercises all the powers of the department of public safety. In each city having a population over 10,000, and not exceeding 35,000, there is a *metropolitan police commission*, composed of three members appointed by the governor for a term of three years, one retiring annually. They are charged with the management of all police matters of their respective cities, and are subject to removal by the governor.

(5) The city treasurer of every city is the head of the *department of assessment and collection*; except that in any city of the first, second and third classes, which is a county seat, the county treasurer performs all the duties of the city treasurer. This officer is elected by the people. He receives and cares for the city revenues, and pays them out upon the warrant of the controller or of the city clerk in cities of the fifth class. He is required, on the first day of each month, to make a statement to the controller (or to the city clerk in cities of the fifth class) of the receipts and disbursements of the previous month and the balance in the treasury, and to deliver all orders redeemed and cancelled by him.

¹ The board is composed of four members appointed for a term of four years, one retiring annually.

² Except in cities having a metropolitan police commission.

(6) The *department of public health and charities* is controlled by a board of three commissioners who must be physicians. They have charge of all matters relating to the public health and the enforcement of laws in relation thereto, including city hospitals, city dispensaries and all other city charities. They appoint one of their number,¹ who is secretary, the executive officer of the board. He has charge of the registration of births and deaths and of the sanitary police. The board prepares the health ordinances, which must be passed by the council as other ordinances.

138. The Judicial Power of cities of the first, second, third and fourth classes is vested in a city court, consisting of a judge, a clerk and a bailiff; except that in cities of the third and fourth classes the judge of the court acts as clerk. In cities of the first and second classes the city clerk performs the duties of the clerk of the court. In cities of the fifth class the mayor exercises the powers and performs the duties of city judge and clerk of the court.

The city judge exercises within the county the powers and jurisdiction conferred upon the justices of the peace, except as otherwise provided. He has exclusive jurisdiction of all violations of the city ordinances. He has original concurrent jurisdiction with the circuit court or criminal court in all cases of petit larceny and other minor offenses.

The prosecuting attorney prosecutes all cases in such court for the violations of the laws of the State, and the city attorney prosecutes all cases of violations of the ordinances.

The bailiff is a police officer, designated and assigned to such court by the chief of police. He has the powers and duties of a constable, and executes all the orders of the court.

¹ In cities of the first class a competent person not a member of the board is appointed by them as city sanitarian, who performs the duties of secretary.

139. The Marshal is the chief ministerial officer in cities of the fifth class. He has the powers of a constable, and is required to arrest persons violating the laws and to suppress all breaches of the peace, having authority to call to his aid the power of the city. It is his duty to execute all processes directed to him by the mayor, city judge or common council. In every city having a board of metropolitan police commissioners the office of marshal is abolished.

140. The Schools are managed in each city by a board of three school trustees, elected by the common council¹ for a term of three years, one retiring annually.

¹ In Indianapolis, five school commissioners are elected for a term of four years by popular vote. In Evansville, the three trustees are appointed by the mayor, subject to removal by him.

CHAPTER V.

PARTY ORGANIZATION AND ELECTIONS.



141. **Political Parties.**—In all countries where the individual citizen is free to have and to express opinions and is an actual participant in government, there must of necessity be diverse views as to the proper policies to be pursued by the State. When a body of voters agree to the same political creed and effect an organization to carry out their theories in some particular way, they constitute a political party. Party organization of itself is not a bad thing. Ideas of government can only be enacted into law through the medium of parties. Individuals acting separately can accomplish little. Besides, the conduct and administration of the party in power are watched closely by the other party to discover, if possible, some act that will give it an advantage. The evils of parties appear when corrupt managers attempt to make a party the instrument of private gain and advancement, and seek to confuse the voters and to convince them that loyalty to party and loyalty to State are identical. But, in fact, these interests are often in conflict, and then the true patriot must make the cause of his party subordinate to the welfare of his State. When public affairs are administered corruptly it is due in part to the negligence and selfish love of ease of the "better class."

From the very beginning of the National government public questions have not only divided men into parties in respect to national affairs, but they have also extended

into the politics of the State, the county and even of the city and the township—wholly obliterating the natural party lines. It is difficult to find a rational answer to the question: "Why should the election of a town trustee or a county treasurer depend upon a man's belief in free trade or protection; in free silver or a gold standard?" The reply of the party man is, that in order to win national elections the party spirit must be kept alive and the party machinery must be oiled constantly with local patronage. For this reason national politics are thrust into local affairs and party fealty is demanded even in the most trivial elections.

142. The Organization.—The success of a party depends very largely upon the excellence of its organization. The purposes of party organization are to keep the party united and enthusiastic, to bring new members into it, to instruct its adherents on the issues and to select the candidates for the offices. This organization consists of three parts: the primary, the convention and the committees.

The term primary is used in two senses. It may signify the assembling of all the voters of a party, residing within defined limits, in a mass meeting for the purpose of naming the candidates and delegates and of performing other party services. Or it may denote an election for the same purposes, at which only members of the party may vote. In either case it is practicable only within narrow limits.

A convention is a meeting of the delegates selected at primaries or mass meetings for the purpose of making nominations and selecting delegates to other conventions. Such a method is uniformly used to determine nominations for President, for State officers, for congressmen, for State senators and representatives, for circuit judges and prosecutors and usually for county and city officers. The convention may also adopt a platform endorsing the national administration of their party (if in power) and

arraigning the opposite party; it may appoint the committees for the district and prescribe certain regulations for the direction of the officers and committeemen. The importance of primaries and conventions has been too much ignored by the better element. Where one party is greatly in the majority a nomination is virtually equal to an election. And where parties are more evenly balanced, after the nominations are made the voter often has but a choice of two evils. Keener interest and greater activity in primaries and conventions will, in a degree at least, prevent the election of corrupt or inefficient officers.

While primaries and conventions are important in the preliminary stages of the campaign, great consequence attaches to the management of the campaign by the committees. The former are merely temporary bodies; the latter are permanent and frequently are composed year after year of the same men, who become expert in the conduct of committee affairs. The members of the national committee are appointed at the time of the national convention.¹ The State central committee has the general direction of the campaign within a State. In Indiana each party has a State central committee, composed of thirteen members, one selected by the convention of each congressional district. The county central committees—usually one from each township—the township committees, the city committees and the ward committees all act under the general supervision of the State committee, with a certain degree of independence allowed to each. They control the raising and expenditure of funds, the organization of meetings, the selection of speakers, the formation of clubs, the preparation of parades, the taking of a poll and many other matters, some of which are not proper and legitimate.

143. Nomination by Petition is another method of

¹ The delegation of each State appoints the member from that State.

selecting candidates. It is resorted to at times when the nominees of the regular parties seem so undesirable that an independent candidate has a chance of winning. To secure a nomination in this way a petition containing the names of the persons desired to be nominated and of the offices to be filled must be presented to the proper officers, signed by a sufficient number of electors.¹

144. The Ballots.—The governor of the State and two qualified electors² appointed by him³ constitute the State board of election commissioners. It is their duty to prepare and distribute the ballots and pencils for the election of all State officers. The clerk of the circuit court and two electors⁴ appointed by him constitute the county board of election commissioners.⁵ They prepare the ballots for the election of all other officers. When nominations are made the names of the candidates are certified to the respective boards by the officers of the primary or convention or by the petitioners, together with the title of the party and the device by which its list of candidates can be designated on the ballots. The names of all candidates for State offices are on one ballot of red paper

¹ The number of petitioners required for a State office is five hundred; for congressmen, two hundred; for county officers, twenty-five; for the officers of a township, ward or other division less than a county, twenty.

² The student should be required to note carefully the qualifications of electors and office-holders as prescribed in the *Constitution, Art. II.*

³ One from each of the two leading parties, nominated by the chairman of the State central committee of each party.

⁴ One from each of the two leading parties, nominated by the chairman of the county central committee of each party.

⁵ Town and city elections at any other time than the general elections are held in conformity with the plan here outlined, with the following exceptions: the duties required of the circuit clerk are performed by the town or city clerk; those of the county commissioners by the town trustees or city council; those of the county sheriff by the town marshal or chief of police; those of the county chairman by the town or city chairman.

arranged in party columns under the proper name and device. The names of candidates for township offices are similarly arranged on yellow paper, and the names of all other candidates on white paper. Great care is taken to guard against fraud in the printing, delivery and distribution of the ballots.¹

145. Election Days.—In Indiana a general election is held on the first Tuesday after the first Monday of November in the even-numbered years. On this day are chosen the presidential electors (every four years, 1904, 1908, etc.); all State officers (some for two, others for four, and others for six years); congressmen; circuit judges (for six years) and prosecutors; and all county officers (some for two, others for four years); and all township officers (for four years). Town and city officers are elected on the first Tuesday after the first Monday in November, every four years, beginning in 1905.² All election days are holidays throughout the district or municipality in which the election is held. The clerk certifies to the sheriff the offices to be filled, and the sheriff must give due notice to the electors fifteen days before election day.

146. Precincts and Voting Places.—The boards of county commissioners divide the townships of their respective counties into election precincts and designate a voting place in each precinct. In cities the common council, in towns the trustees exercise this authority. The county commissioners must provide a suitable room at each voting place with a chute or passageway fifty feet long leading to it. That part of the room to be occupied by the election board must be separated by means of a railing from the remainder of the room. Three booths or compartments containing shelves must be provided for

¹ The use of voting machines may be ordered in one or more precincts by the authority of the county commissioners.

² The election of road supervisors occurs on the second Saturday after the first Monday of December, in the odd-numbered years.

each room; these must be so constructed that when the elector passes within to mark his ballot he will be screened from view and at the same time the presence of more than one person may be revealed to the election board. Separate ballot boxes must be provided: a red box for the State ballots, a white box for the county ballots and a yellow box for the township ballots.

147. Election Officers.—Besides the boards of election commissioners already mentioned,¹ there are other important officers. The township trustees are inspectors of elections in the precincts in which they reside. If any township includes more than one precinct, the additional inspectors are appointed by the county commissioners. The inspectors appoint as judges of election two qualified electors² of the precinct. The inspector and the two judges constitute the board of election for the precinct. This board appoints two poll clerks.² The county sheriff appoints two deputies, known as election sheriffs,² for each precinct in the county. It is their duty to preserve order at the polls and to enforce the provisions of the election law under the direction of the election board. No other peace officer is allowed within fifty feet of the polls.³ In all cases except treason, felony and breach of the peace, electors are free from arrest in going to and returning from elections.⁴

148. Voting.—Elections are opened at six o'clock in the forenoon and continue open until four in the after-

¹ See § 144.

² One from each of the two leading parties, nominated by the chairman of the county central committee of each party.

³ Each party may appoint one challenger and one poll-book holder, who may stand inside the chute within the fifty-foot limit. They are not, however, officers of the State and must look to their party for compensation.

⁴ See *Art. II. Sect. 12.*

noon,¹ except that in cities or towns having a population of 1000 or more they are open until six in the afternoon. When a voter has been admitted to the election room he announces his name to the poll clerks, who register it. One of the clerks delivers to him a ballot for each election with the initials of each clerk on the back of it; the other clerk gives him a blue pencil. The voter then retires into one of the unoccupied booths and indicates the candidates for whom he wishes to vote by making a cross, thus **X**, on the square preceding each name. If he desires to vote a "straight" ticket, he marks a cross within the circle containing the party device at the top of the column.² The ballot must contain no mark such as would distinguish it from others. While still in the booth he folds the ballots separately so that no part of the faces can be seen and so that the initials of the clerks are exposed to view. He then returns the pencil to the poll clerk and delivers his ballots to the inspector or to one of the judges, who deposits them in the proper boxes in the presence of the voter. If the voter spoils a ballot, it may be returned and another obtained. If a voter makes affidavit that he is unable to prepare his ballot, he may indicate his choice of candidates to the clerks, who prepare the ballot in his presence. Voters must engage in no conversation except with the election board, must not occupy a booth longer than five minutes, and must leave the room as soon as they have voted.

149. The Canvass.—Immediately on closing the polls the election board counts the ballots remaining unvoted, records the number of them on the tally-sheet and destroys them by burning. It proceeds first to count the State ballots, then the local ballots, and lastly the town-

¹ When the proper steps are taken the polls may be kept open until 6 P. M.

² In case an elector wishes to vote for any person whose name is not on the ballot, he may prepare a printed paster containing a complete list of all officers to be voted for and paste it on the ballot.

ship ballots. Any ballot without the initials of the clerks, or any ballot having a distinguishing mark or any ballot from which the choice of the elector cannot be determined is not counted as to the candidate or candidates affected by it. All protested, disputed or defective ballots are preserved, placed in bags securely sealed, and delivered to the county clerk,¹ and a record of such ballots is made on the tally-sheet. After the count is completed all the remaining ballots are burned. The board makes a memorandum of the total vote for each candidate and each member receives a copy of it. The board of judges also makes out a certificate stating the number of votes each person has received : this certificate with one of the lists of voters and one of the tally-papers is deposited with the inspector or one of the judges selected by the board. These officers who have charge of the certificates constitute a board of canvassers for the county.² They meet at the court-house between 10 A. M. and 6 P. M. on the Thursday following the election. They examine the certificates and other papers, aggregate and tabulate the total vote of the county, a statement of which is drawn up giving the vote for each candidate and the whole number of votes cast. This statement is signed by each member of the board and, together with the poll-books and tally-papers, is delivered to the county clerk and by him filed in his office and preserved, open to inspection by any legal voter. The board declares the person having the highest number of votes for any office to be filled by the voters of any single county duly elected and certifies the same in the statement mentioned above. In case of a tie vote

¹ The clerk is required to keep them in his office six months, or, in case of a contest, until the contest is determined.

² The canvassing board for township officers in a township having but one precinct is the election board of that precinct ; in all other townships the inspectors or judges having charge of the certificates constitute the board.

the board declares there is no person elected for that office. Any person elected to an office by the voters of a county, not to be commissioned by the governor, may obtain after ten days a certificate of election from the clerk. Where the governor commissions an officer the clerk certifies his vote to the secretary of State. When two or more counties compose a senatorial or representative district the county clerks certify the vote to the sheriffs respectively, who meet and jointly prepare the certificate and send it to the person elected. The county clerks on the day after the return-day (on Friday) make out certified statements of the number of votes given to each candidate for State offices; for representatives in Congress; for judges and prosecuting attorneys of the circuit courts; and for senators and representatives in the General Assembly: these are sent to the secretary of State. That officer in the presence of the governor compares and estimates the number of votes for all of the State officers (except for governor, lieutenant-governor, senators and representatives); for all congressmen; and for all judges and prosecuting attorneys of the circuit courts; and certifies to the governor the persons having the highest number of votes. The governor, thereupon, transmits to them their commissions. Each clerk of the circuit court also makes out two certified statements of the number of votes each candidate for governor and lieutenant-governor has received; one of these he transmits to the speaker of the next house of representatives through his senator or representative; the other he directs to the speaker in care of the secretary of State. The speaker opens and publishes them in the presence of both houses and the person having the highest number of votes for each office is declared elected. In case of a tie between the two candidates having the highest number of votes for either office the General Assembly elects by a joint vote.¹

¹ See *Art. V. Sects. 4 and 5.*

150. Contested Elections.—The election of any candidate may be contested by any elector. A contest of the election of a State officer is tried by a joint committee of both houses of the General Assembly and their judgment is conclusive. Each house determines the contested elections of its own members. The county commissioners try the contested elections of all county and township officers; but appeals may be had to the circuit court. The contests of the election of municipal officers are tried in the circuit courts.

151. Purity of Elections.—Unless there can be an honest expression of the will of the people, free government cannot long exist. The State has attempted to protect the purity of the ballot-box by declaring all forms of bribery, intimidation and corruption to be most serious crimes, punishable in many cases by fines, imprisonment and disfranchisement. But all such admirable laws are but empty declarations unless the civic virtue of every community is active enough to demand the same standard of honesty in politics that is demanded in business life, and to teach the corrupters and debauchers of the electors a wholesome fear of a righteously indignant public spirit.

CHAPTER VI.

PUBLIC EDUCATION.



152. **The School System** is required by the Constitution to be general and uniform and to offer free tuition equally open to all. The State has appreciated that the realization of the highest possibilities of her children cannot be attained unless she offers to them all the fullest opportunities for the best education possible. To that end provision has been made for the establishment of elementary or graded schools, comprising the first eight years of school work ; high schools offering more advanced instruction ; a professional school for teachers ; and two institutions for higher education.¹ So that it is possible for any child having the industry and mental capacity to enter at the age of six the primary school of any town, city or country district, and by winning promotion to pass by regular steps through the graded schools, through a commissioned high school and finally to graduation from the State University. If a pedagogical or technical training is preferred, the State Normal School and Purdue University are open to him. The State has not stopped here. It has provided instruction peculiarly fitted for those children whose infirmities or misfortunes have rendered them incapable of enjoying the privileges accorded to others, by establishing the Institute for the

¹ The following schools are also authorized by law : kindergarten schools in any incorporated town or city ; night schools in any city having a population of 3000 or more ; and manual training schools in any city having a population of 30,000 or more.

Education of the Blind, the School for Deaf-Mutes, the School for the Feeble-Minded Youth and the Indiana Soldiers' and Sailors' Orphans' School. It has also recognized a duty even to those who have wilfully and criminally ignored their opportunities, by founding the Indiana Boys' School and the Industrial School for Girls, and by providing at public expense instruction for the inmates of the Indiana Reformatory and the State prisons for men and women. More and more nearly is being realized that ideal school system in which the State endeavors to furnish to all its youth of every class and condition that education which is most suitable to their needs and which may be most helpful to them in the effort to live self-supporting and virtuous lives.

153. The School Fund is the pride of every citizen of Indiana. The present efficient system by which the means for the support of the schools are provided has been generally commended by schoolmen. But it is the result of many years of experiment. It is based upon the theory that their maintenance should be furnished partly by the State and partly by the local communities. Experience has shown that in this case local self-government is not the ideal plan; for it leaves the poor, ignorant and indifferent communities alone in their poverty and ignorance. Neither is support wholly by the State the ideal method, for this makes the people dependent, indifferent and perhaps extravagant. Under the present system the aid given by the State secures at least a minimum term to the poorer districts and stimulates the local authorities to more earnest effort.

The school fund is the permanent endowment of the schools. It includes money loaned at interest and rented lands. The principal must remain a perpetual fund which may be increased but must never be diminished; and the income thereof must be inviolably appropriated to the support of the common schools and to no other pur-

pose.¹ It consists of two distinct parts: the *congressional township fund* and the *common school fund*. The former came from the sale of land given to the State at the time of its admission to the Union.² It has been decided by the Indiana supreme court that by the terms of the grant the fund derived from the sale of the "school section" cannot be diverted by legislation from the use of the inhabitants of the congressional township. This fund amounted in 1903 to \$2,466,000.³

The *common school fund* is the consolidation of all other funds devoted to common school purposes. In 1903 it amounted to \$8,032,654. The sources⁴ from which it has been derived are the following: the surplus revenue fund; the saline fund; the bank tax fund; the proceeds from the bank sinking fund; the fund obtained from the sale of county seminaries and their property; all fines assessed for breaches of the penal laws and forfeitures; all escheats; all lands granted to the State without an expressed purpose, including the swamp-land grants made by Congress in 1850; funds from delinquent taxes; proceeds from the sale of estrays; and taxes on the property of corporations assessed for common school purposes.⁵

¹ See *Art. VIII. Sect. 3.*

² See §§ 20 and 36.

³ This does not include the value of more than 1100 acres remaining unsold.

⁴ See *Art. VIII. Sect. 2.*

⁵ *The Surplus Revenue Fund.* When the surplus revenue of the United States was distributed among the States in 1836, the share allotted to Indiana was \$860,254. The next year the General Assembly set aside for school purposes \$537,502.96 of this fund. By the terms of the act of distribution the State is bound to repay this money or any part of it whenever it is called for by the United States government.

The Saline Fund and the lands belonging thereto. By the enabling act of 1816 Congress granted to Indiana all the salt springs within the State and the lands reserved about them. In 1833 the legislature ordered these lands to be sold and the proceeds to be appropriated to the common schools. The amount received from this source was about \$85,000.

The management of the school fund is intrusted to the counties in the care of the county auditors. The money is loaned by them at the rate of six per cent. If for any reason there is a loss of any part of the principal or in-

The Bank-tax Fund. When the State Bank of Indiana was chartered, in 1834, it was stipulated that each share not owned by the State should pay an annual tax of $12\frac{1}{2}$ cents, to be applied to the school fund. From an observance of this provision there accrued to the fund \$80,000.

The Sinking Fund. In order to take stock in the State Bank and to make loans to individuals who wished to take stock in the bank, it was necessary for the State to borrow money. This loan was to be paid from the proceeds of a sinking fund, which consisted of the unapplied balances of the loan made to the State; the sums (principal and interest) paid on the loans made by the State to the stockholders; and the dividends or profits received by the State as a stockholder. It was provided that after the payment of the loan made to the State and all expenses the residue should be a permanent fund and be appropriated to the cause of common schools. This sinking fund was so skilfully managed that the school fund has realized the generous sum of \$4,255,731.87.

The Seminary Fund. Under the provisions of the Constitution of 1816 county seminaries were established, the support of which came from exemption moneys, fines for breaches of the penal laws and "unclaimed gaming money recovered." When the reorganization of the school system was effected by the Constitution of 1851 and the laws of 1852 it was provided that all the buildings and property belonging to these seminaries should be sold and the proceeds be added to the common school fund. The exact amount received from such sales is not known, but it exceeded \$100,000.

Fines and Forfeitures. All fines assessed for breaches of the penal laws of the State and all forfeitures on recognizances are turned into this fund. Great carelessness or corruption in the collection and management of such moneys existed prior to 1868. But since that time the annual increase of the fund from this cause has averaged more than \$50,000. The total amount realized is more than \$1,800,000.

Escheats. While nominally a source of revenue, for fifty years only a small amount has been added to the fund from money derived from "the sale of escheated real estate."

All lands granted to the State with no special purpose mentioned in the grant; and the proceeds of the sale of *swamp-lands*. The swamp-lands granted to Indiana in 1850 by Congress aggregated 1,257,588

terest, that deficit must be made good by the county and not by the State. No part of the revenue derived from this fund can be used for any other purpose than for tuition. No buildings or equipment may be purchased with it; not even a school superintendent may be paid from it.

154. The School Revenues consist of all moneys from whatever public source expended or which may be expended upon the public schools. They are of two kinds: the State revenue and the local revenue. The former is made up of the State tax (11.6 cents on the \$100 and 50 cents poll); interest on the common school fund; and unclaimed witness fees. The local revenues include the interest on the congressional township fund; liquor licenses; the surplus dog-tax fund; and local tuition taxes.

The State revenue is apportioned semi-annually. The county auditors report semi-annually to the superintendent of public instruction the amount of revenue for tuition collected and ready for apportionment in each county. The State superintendent apportions this to the several

acres. But from this gift nothing has been realized directly for the school fund. The proceeds were recklessly, if not dishonestly, expended in the draining and surveying of the lands. It was also the purpose of the legislature that whatever surplus might remain after the construction of the Michigan road from the lands donated for that object should be applied to the school fund. But all the proceeds were absorbed in the building of the road.

Estrays. After the payment of expenses attendant upon the impounding and sale of animals astray or adrift the proceeds from such sales are added to the school fund. The receipts from this source have been about \$1000.

Delinquent Tax Funds. When lands are returned delinquent for seven years, county treasurers are authorized to sell them and apply the proceeds to the common school fund.

Corporation taxes that may be assessed by the General Assembly for school purposes. Whatever money has been received from such a source has gone as revenue and not into the endowment fund.

counties upon the basis of the enumeration of the school children between the ages of six and twenty-one. Upon the same basis each county auditor apportions to the school corporations¹ of his county the share of revenue received. However, he must first ascertain the amount of congressional township revenue each school corporation receives and must apportion the State revenue, so as to equalize the amount of tuition for each city, town and township, according to the enumeration of the children; but the income from the congressional township fund cannot by such apportionment be diminished, diverted or distributed to any other township. Each school corporation may levy a special tax for the construction and repair of buildings and for other necessary expenses, and a local tax for tuition revenue to supplement the tuition fund of the State.²

155. The Administration of the schools must, from the very nature of the system, be largely central as well as local. The centralization of authority has tended to make the interpretation of laws consistent; to establish uniformity in the curricula of the graded schools; to elevate the standard of the poorer schools; to equalize privileges; to avoid unsound policies; to prevent mismanagement of the funds and evasion of the laws; and to inspire

¹ Each civil township and each incorporated town or city is a corporation for school purposes distinct from the civil or municipal corporation.

² *Summary of school revenue for 1903:*

(1) Tuition revenue—

Common school revenue (from State levy)	\$2,215,463
Congressional township revenue	156,378
Local tuition revenue	3,285,490
Revenue from liquor licenses	496,516
County dog fund	106,807
Total	\$6,260,654

(2) Special school revenue	3,163,011
Grand total	\$9,423,665

teachers and pupils alike in the thought that each is a component part of a great unified system in which more than a half million pupils and teachers are working to the same noble end. The officers especially charged on the part of the State with the execution of the system are the State superintendent of public instruction and the State board of education.¹ The local administration is assigned to the county superintendent, the county board of education,² the township trustees, the school directors, the school trustees and superintendents of towns and cities.³

156. School Books.—In 1889 a text-book law was enacted, by which the maximum price of fifteen books was determined. The State board of education has entered into contracts with publishers for the furnishing of the required books at the stipulated prices. The effects of the law have been beneficial in two ways: the cost of books has been reduced about fifty per cent. and this reduction has been followed by an increased attendance; and the work has been made more nearly uniform,⁴ and thus the standard of the graded schools has been raised.

157. Compulsory Education.—The law provides that parents and guardians shall send all children between the

¹ Their duties are explained with sufficient detail in §§ 65 and 77 (6).

² The county board of education is composed of *ex officio* members—the township trustees, the chairmen of the school boards of towns and cities within the county and the county superintendent. It has authority to adopt a course of study and to make reasonable rules for carrying it out. Its function is chiefly advisory and its purpose to secure uniformity in the schools of the county.

³ For explanation of the duties of such officers, see §§ 106; 119 (1), (5), and 122.

⁴ The branches taught are orthography, reading, writing, arithmetic, geography, English grammar, physiology (with the effects of alcoholic drinks and narcotics), history of the United States; good behavior; and such other subjects as the advancement of the pupils may require and the trustees may direct.

ages of seven and fourteen years (except those exempted),¹ to a public or private school for the entire period that the schools are in session. Truant officers are appointed by the county board of education, whose duty it is to see that the provisions of the act are complied with. For violations of this law parents and guardians are liable to a fine of from five to twenty-five dollars and imprisonment for from two to ninety days. The school authorities are required to furnish to indigent children the necessary books and clothing with which to attend school. Boards of trustees are empowered to maintain "Parental Homes," which truant or incorrigible children not over twelve years of age may be compelled to attend.

158. The Examination and Training of Teachers is of the greatest importance to the efficiency of the schools. Trustees are forbidden to employ teachers without the requisite license. Licenses are classified as follows: first grade (life license); second grade (professional license for eight years); third grade (high school license for sixty months); fourth grade (thirty-six months' license); fifth grade (twenty-four months' license); sixth grade (twelve months' license). The first and the second grade licenses are granted only by the State board of education upon examination and are known as State licenses. Any applicant for a license of a lower grade may elect to have his manuscripts sent to the State superintendent for examination. Such a license is also a State license and is valid in any county of the State. County licenses (below the second grade) are issued by the county superintendent after examination upon questions furnished by the State board. Any one who has taught for six years and who obtains a fourth grade license is thereafter exempt from examination, provided he teaches continuously, without the lapse of a year, the subjects in which he was examined.

¹ Children physically or mentally incapacitated are exempt from the provisions of the law.

Upon compliance with certain conditions the holder of a life State certificate from another State may have it countersigned by the State superintendent; such a license is then valid in any of the schools of the State.

The State has recognized that the character of the schools depends more upon the character, scholarship and professional training of the teachers than upon buildings and equipment. It has therefore wisely provided for the literary and technical instruction of its teachers by establishing institutions of higher learning. The State Normal School, located at Terre Haute, includes the normal school proper and the model school. The latter serves as a practice and model school for the normal students. The normal school proper is designed to "confer that knowledge which constitutes the science of education and to train students in the art of instruction and school management." A department of pedagogy is a part of the curriculum of Indiana University. There are, besides, the following supplementary educational agencies: county and township institutes, giving instruction in methods; the reading circles, imparting culture and professional knowledge; and the teachers' associations—State and local—directing in a large degree school legislation and awakening and intensifying the professional spirit.

159. The State Universities.—"It is as essential to the welfare of a State that its leaders be thoroughly educated as that its voters have a common-school education. In an important sense, then, the colleges are the life of the State."¹

Indiana has answered the demand for higher education by the establishment of the Indiana University and Purdue University. The latter institution, located at La Fayette, embraces now a government "experiment station" and six special schools bearing upon the scientific and in-

¹ W. A. BELL, in *The Schools of Indiana*, p. 133.



MAXWELL HALL (LIBRARY), INDIANA UNIVERSITY.

dustrial life of the State. It derives sustenance from three sources: (1) the interest on a permanent endowment obtained from the sale of lands donated by the United States, from gifts from Hon. John Purdue and from grants by Tippecanoe county; (2) an annual appropriation by Congress; and (3) a revenue of one cent upon every \$100 of taxable property in Indiana. The school has grown constantly in favor and efficiency.

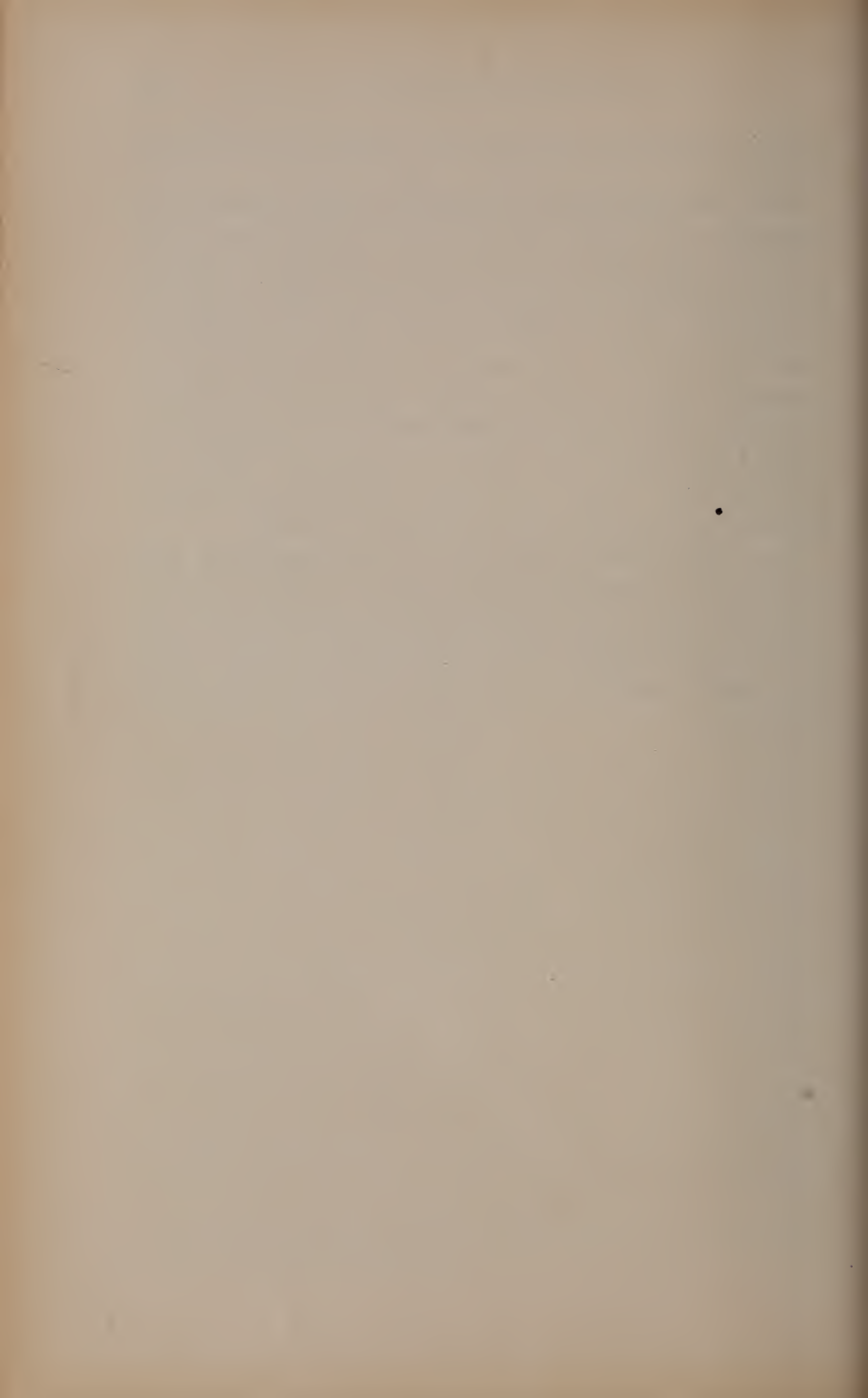
Indiana University, located at Bloomington, has made rapid progress in the last fifteen years. Its income is derived from three sources: (1) rents from unsold lands donated by the United States; (2) interest on the permanent endowment, which is in part the proceeds of land sales and in part a fund obtained by State taxation; and (3) revenue from a tax of one cent on the hundred dollars.¹ Work of a literary and scientific nature is offered in two hundred and twenty-three courses classified into seventeen departments, including the school of law. There are more than sixty-five members of the faculty who have received their training at forty of the leading universities of Europe and America. Well-equipped libraries, museums and laboratories give excellent opportunity for breadth of culture and special investigation. The university has no preparatory department of its own. It draws its students directly from the secondary schools. The graduates from two hundred and ten commissioned high schools are admitted to the freshmen class without examination. Since this relation has been established the courses of the high schools have been enlarged, systematized and made more nearly uniform, and the attendance of the university has grown from 144 in 1884 to 1538 in 1905. This illustrates well how intimately the interests of all the educational institutions are interwoven, and how steadily the influence

¹ The legislature has in addition at various times made special appropriations to these three institutions.

of higher education permeates down to the most elementary schools.

160. Denominational Institutions and Independent Normals.—This brief account of the educational forces would be still more incomplete if it omitted to mention the denominational schools and independent normals. The former were founded “to provide for the higher Christian education of young men and women” and to propagate the gospel by securing a pure and enlightened ministry. The latter were established in response to a demand throughout the State for schools in which mature men and women could, in a brief period, prepare themselves as teachers in the common schools.

The work offered by them is in character similar to that done by the corresponding State schools. Their numerous graduates, occupying prominent places in the professional, political and business life of the commonwealth, attest the valuable influences that have gone out from these institutions.



CONSTITUTION

OF THE

STATE OF INDIANA.



PREAMBLE.

To the end that justice be established, public order maintained, and liberty perpetuated: We, the people of the State of Indiana, grateful to Almighty God for the free exercise of the right to choose our own form of government, do ordain this Constitution.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. Natural rights.—We declare that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that all power is inherent in the people; and that all free governments are, and of right ought to be, founded on their authority, and instituted for their peace, safety, and well being. For the advancement of these ends, the people have at all times an indefeasible right to alter and reform their government.

SEC. 2. Right to worship.—All men shall be secured in their natural right to worship Almighty God according to the dictates of their own consciences.

SEC. 3. Freedom of opinion.—No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

SEC. 4. No preference to any creed.—No preference shall be given, by law, to any creed, religious society or mode of worship; and no man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent.

SEC. 5. **No religious test.**—No religious test shall be required as a qualification for any office of trust or profit.

SEC. 6. **No support for religious institutions.**—No money shall be drawn from the treasury for the benefit of any religious or theological institution.

SEC. 7. **Competency of witness.**—No person shall be rendered incompetent as a witness, in consequence of his opinion on matters of religion.

SEC. 8. **Administration of oaths.**—The mode of administering an oath or affirmation shall be such as may be most consistent with, and binding upon, the conscience of the person to whom such oath or affirmation may be administered.

SEC. 9. **Free speech and writing.**—No law shall be passed restraining the free interchange of thought and opinion, or restricting the right to speak, write, or print, freely, on any subject whatever; but for the abuse of that right every person shall be responsible.

SEC. 10. **Justification in libel.**—In all prosecutions for libel, the truth of the matters alleged to be libelous may be given in justification.

SEC. 11. **Unreasonable search and seizure.**—The right of the people to be secure in their persons, houses, papers and effects, against unreasonable search or seizure shall not be violated, and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

SEC. 12. **Justice without purchase.**—All courts shall be open; and every man, for injury done to him, in his person, property or reputation, shall have remedy by due course of law. Justice shall be administered freely and without purchase; completely, and without denial; speedily, and without delay.

SEC. 13. **Rights of accused.**—In all criminal prosecutions the accused shall have the right to a public trial, by an impartial jury in the county in which the offense shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.

SEC. 14. **No person twice in jeopardy.**—No person shall be put in jeopardy twice for the same offense. No person, in any criminal prosecution, shall be compelled to testify against himself.

SEC. 15. No unnecessary rigor.—No person arrested, or confined in jail, shall be treated with unnecessary rigor.

SEC. 16. No excessive bail and punishment.—Excessive bail shall not be required. Excessive fines shall not be imposed. Cruel and unusual punishment shall not be inflicted. All penalties shall be proportioned to the nature of the offense.

SEC. 17. Offenses bailable.—Offenses, other than murder or treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable when the proof is evident, or the presumption strong.

SEC. 18. Reformation the basis of penal code.—The penal code shall be founded on the principles of reformation, and not of vindictive justice.

SEC. 19. Jury in criminal cases.—In all criminal cases whatever, the jury shall have the right to determine the law and the facts.

SEC. 20. Jury in civil cases.—In all civil cases the right of trial by jury shall remain inviolate.

SEC. 21. Compensation for services and property.—No man's particular services shall be demanded without just compensation. No man's property shall be taken by law without just compensation; nor, except in case of the State, without such compensation first assessed and tendered.

SEC. 22. Exemption: no imprisonment for debt.—The privilege of the debtor to enjoy the necessary comforts of life, shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted; and there shall be no imprisonment for debt, except in case of fraud.

SEC. 23. Equal privileges to all.—The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

SEC. 24. No ex post facto law.—No *ex post facto* law, or law impairing the obligation of contract, shall ever be passed.

SEC. 25. No delegation of authority.—No law shall be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this Constitution.

SEC. 26. Suspension of laws.—The operation of the laws shall never be suspended except by the authority of the General Assembly.

SEC. 27. **Suspension of habeas corpus.**—The privileges of the writ of *habeas corpus* shall not be suspended, except in case of rebellion or invasion, and then only if the public safety demand it.

SEC. 28. **Treason.**—Treason against the State shall consist only in levying war against it, and giving aid and comfort to its enemies.

SEC. 29. **Conviction of treason.**—No person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or upon his confession in open court.

SEC. 30. **Effect of conviction.**—No conviction shall work corruption of blood or forfeiture of estate.

SEC. 31. **Right to assemble, to instruct and to petition.**—No law shall restrain any of the inhabitants of the State from assembling together, in a peaceable manner, to consult for their common good; nor from instructing their representatives; nor from applying to the General Assembly for redress of grievances.

SEC. 32. **Right to bear arms.**—The people shall have a right to bear arms for the defense of themselves and the State.

SEC. 33. **Military subordinate to civil power.**—The military shall be kept in strict subordination to the civil power.

SEC. 34. **Quartering of soldiers.**—No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in a manner to be prescribed by law.

SEC. 35. **No titles of nobility.**—The General Assembly shall not grant any title of nobility, nor confer hereditary distinctions.

SEC. 36. **Free emigration.**—Emigration from the State shall not be prohibited.

SEC. 37. **No slavery.**—There shall be neither slavery nor involuntary servitude, within the State, otherwise than for the punishment of crime, whereof the party shall have been duly convicted. No indenture of any negro or mulatto, made or executed out of the bounds of the State, shall be valid within the State.

ARTICLE II.

SUFFRAGE AND ELECTION.

SECTION 1. **Elections free.**—All elections shall be free and equal.

SEC. 2. **Qualifications of electors.**—In all elections not other-

wise provided for by this Constitution, every male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months, and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election; and every male of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months, and in the township sixty days, and in the ward or precinct thirty days, immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote in the township or precinct where he may reside, if he shall have been duly registered according to law. [*As amended March 24, 1881.*]

SEC. 3. Soldiers: seamen: marines.—No soldier, seaman or marine, in the army or navy of the United States, or their allies, shall be deemed to have acquired a residence in this State in consequence of having been stationed within the same; nor shall any such soldier, seaman or marine, have the right to vote.

SEC. 4. Residence.—No person shall be deemed to have lost his residence in the State by reason of his absence either on business of the State or of the United States.

SEC. 5. [*Stricken out by constitutional amendment of March 24, 1881.*]

SEC. 6. Bribery a disqualification for office.—Every person shall be disqualified from holding office during the term for which he may have been elected, who shall have given or offered a bribe, threat, or reward to procure his election.

SEC. 7. Challenge to duel.—Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or who shall agree to go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

SEC. 8. Disfranchisement.—The General Assembly shall have power to deprive of the right of suffrage, and to render ineligible any person convicted of an infamous crime.

SEC. 9. Lucrative offices.—No person holding a lucrative office or appointment, under the United States, or under this State, shall be eligible to a seat in the General Assembly; nor shall any person

hold more than one lucrative office at the same time, except as in this Constitution expressly permitted: *Provided*, That offices in the militia, to which there is attached no annual salary, and the office of Deputy Postmaster, where the compensation does not exceed ninety dollars per annum, shall not be deemed lucrative; *And provided, also*, That counties containing less than one thousand polls may confer the office of Clerk, Recorder and Auditor, or any two of said offices, upon the same person.

SEC. 10. **Defaulters ineligible.**—No person who may hereafter be a collector or holder of public moneys, shall be eligible to any office of trust or profit until he shall have accounted for and paid over, according to law, all sums for which he may be liable.

SEC. 11. **Appointments pro tempore.**—In all cases in which it is provided that an office shall not be filled by the same person more than a certain number of years continuously, an appointment *pro tempore* shall not be reckoned a part of that term.

SEC. 12. **Electors free from arrest.**—In all cases, except treason, felony and breach of the peace, electors shall be free from arrest in going to elections, during their attendance there, and in returning from the same.

SEC. 13. **Methods of election.**—All elections by the people shall be by ballot; and all elections by the General Assembly, or by either branch thereof, shall be *viva voce*.

SEC. 14. **Time of elections.**—All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such time as may be provided by law: *Provided*, That the General Assembly may provide by law for the election of all judges of courts of general or appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and shall also provide for the registration of all persons entitled to vote. [*As amended March 24, 1881.*]

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. **Three departments.**—The powers of the Government are divided into three separate departments: the Legislative, the Executive (including the Administrative), and the Judicial; and no person charged with official duties under one of these

departments shall exercise any of the functions of another except as in this Constitution expressly provided.

ARTICLE IV.

LEGISLATIVE.

SECTION 1. The General Assembly: laws.—The Legislative authority of the State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives. The style of every law shall be : “ Be it enacted by the General Assembly of the State of Indiana ”; and no law shall be enacted except by bill.

SEC. 2. Number and election of members.—The Senate shall not exceed fifty, nor the House of Representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts into which the State may, from time to time, be divided.

SEC. 3. Terms of office: classes of senators.—Senators shall be elected for the term of four years, and Representatives for the term of two years, from the day next after their general election : *Provided, however,* That the Senators elect, at the second meeting of the General Assembly under this Constitution, shall be divided, by lot, into two equal classes, as nearly as may be; and the seats of Senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years; so that one-half, as nearly as possible, shall be chosen biennially forever thereafter. And in case of increase in the number of Senators, they shall be so annexed by lot, to the one or the other of the two classes, as to keep them as nearly equal as practicable.

SEC. 4. Enumeration.—The General Assembly shall, at its second session after the adoption of this Constitution, and every sixth year thereafter, cause an enumeration to be made of all the male inhabitants over the age of twenty-one years. [*As amended March 24, 1881.*]

SEC. 5. Apportionment.—The number of Senators and Representatives shall, at the session next following each period of making such enumeration, be fixed by law, and apportioned among the several counties, according to the number of male inhabitants, above twenty-one years of age, in each: *Provided,* That the first and second elections of members of the General

Assembly, under this Constitution, shall be according to the apportionment last made by the General Assembly before the adoption of this Constitution. [*As amended March 24, 1881.*]

SEC. 6. **Districts.**—A Senatorial or Representative district, where more than one county shall constitute a district, shall be composed of contiguous counties; and no county, for Senatorial apportionment, shall ever be divided.

SEC. 7. **Qualifications.** No person shall be a Senator or a Representative, who, at the time of his election, is not a citizen of the United States; nor any one who has not been, for two years next preceding his election, an inhabitant of this State, and for one year next preceding his election, an inhabitant of the county or district whence he may be chosen. Senators shall be at least twenty-five, and Representatives at least twenty-one years of age.

SEC. 8. **Privileges.**—Senators and Representatives, in all cases except treason, felony, and breach of the peace, shall be privileged from arrest during the session of the General Assembly, and in going to and returning from the same; and shall not be subject to any civil process during the session of the General Assembly, nor during the fifteen days next before the commencement thereof. For any speech or debate in either House, a member shall not be questioned in any other place.

SEC. 9. **Sessions.**—The sessions of the General Assembly shall be held biennially, at the capital of the State, commencing on the Thursday next after the first Monday of January, in the year one thousand eight hundred and fifty-three, and on the same day of every second year thereafter, unless a different day or place shall have been appointed by law. But if, in the opinion of the Governor, the public welfare shall require it, he may, at any time, by proclamation, call a special session.

SEC. 10. **Officers: adjournment.**—Each House, when assembled, shall choose its own officers (the President of the Senate excepted), judge the elections, qualifications and returns of its own members, determine its rules of proceeding, and sit upon its own adjournment. But neither House shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which it may be sitting.

SEC. 11. **Quorum.**—Two-thirds of each House shall constitute a quorum to do business; but a smaller number may meet, adjourn

from day to day, and compel the attendance of absent members. A quorum being in attendance, if either House fail to effect an organization within the first five days thereafter, the members of the House so failing shall be entitled to no compensation from the end of the said five days, until an organization shall have been effected.

SEC. 12. Journal.—Each House shall keep a journal of its proceedings, and publish the same. The yeas and nays, on any question, shall at the request of any two members, be entered, together with the names of the members demanding the same, on the journal: *Provided*, That on a motion to adjourn, it shall require one-tenth of the members present to order the yeas and nays.

SEC. 13. Sessions open.—The doors of each House, and of Committees of the Whole, shall be kept open, except in such cases as, in the opinion of either House, may require secrecy.

SEC. 14. Punishment of members.—Either House may punish its members for disorderly behavior, and may, with the concurrence of two-thirds, expel a member; but not a second time for the same cause.

SEC. 15. Punishment for contempt.—Either House, during its session, may punish, by imprisonment, any person not a member, who shall have been guilty of disrespect to the House, by disorderly or contemptuous behavior in its presence; but such imprisonment shall not, at any time, exceed twenty-four hours.

SEC. 16. Powers of each House.—Each House shall have all powers necessary for a branch of the legislative department of a free and independent State.

SEC. 17. Bills.—Bills may originate in either House, but may be amended or rejected in the other, except that bills for raising revenue shall originate in the House of Representatives.

SEC. 18. Reading and vote.—Every bill shall be read by sections, on three several days in each House; unless, in case of emergency, two-thirds of the House where such bill may be depending shall, by a vote of yeas and nays, deem it expedient to dispense with this rule; but the reading of a bill by sections, on its final passage, shall in no case be dispensed with; and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays.

SEC. 19. Subject matter and title.—Every act shall embrace but one subject, and matters properly connected therewith; which

subject shall be expressed in the title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

SEC. 20. **Wording.**—Every act and joint resolution shall be plainly worded, avoiding, as far as practicable, the use of technical terms.

SEC. 21. **Revision of acts.**—No act shall ever be revised or amended by mere reference to its title; but the act revised, or section amended, shall be set forth and published at full length.

SEC. 22. **Special legislation.**—The General Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

Regulating the jurisdiction and duties of justices of the peace and of constables;

For the punishment of crimes and misdemeanors;

Regulating the practice in courts of justice;

Providing for changing the venue in civil and criminal cases;

Granting divorces;

Changing the names of persons;

For laying out, opening and working on, highways, and for the election or appointment of supervisors;

Vacating roads, town plats, streets, alleys and public squares;

Summoning and impaneling grand and petit juries, and providing for their compensation;

Regulating county and township business;

Regulating the election of county and township officers, and their compensation;

For the assessment and collection of taxes for State, county, township or road purposes;

Providing for supporting common schools, and for the preservation of school funds;

In relation to fees or salaries; except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required; [*As amended March 24, 1881*].

In relation to interest on money;

Providing for opening and conducting elections of State, county or township officers, and designating the places of voting;

Providing for the sale of real estate belonging to minors, or other persons laboring under legal disabilities, by executors, administrators, guardians or trustees.

SEC. 23. Laws shall be general.—In all the cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State.

SEC. 24. Suits against the State.—Provisions may be made by general law, for bringing suits against the State, as to all liabilities originating after the adoption of this Constitution; but no special act authorizing such suit to be brought, or making compensation to any person claiming damages against the State, shall ever be passed.

SEC. 25. Passage of bills.—A majority of all the members elected to each House shall be necessary to pass every bill or joint resolution; and all bills and joint resolutions so passed shall be signed by the presiding officers of the respective houses.

SEC. 26. Right of protest.—Any member of either House shall have the right to protest, and to have his protest, with his reasons for dissent, entered on the journal.

SEC. 27. Statutes public laws.—Every statute shall be a public law, unless otherwise declared in the statute itself.

SEC. 28. Taking effect of laws.—No act shall take effect until the same shall have been published and circulated in the several counties of this State, by authority, except in case of emergency; which emergency shall be declared in the preamble or in the body of the law.

SEC. 29. Compensation.—The members of the General Assembly shall receive for their services a compensation, to be fixed by law; but no increase of compensation shall take effect during the session at which such increase may be made. No session of the General Assembly, except the first under this Constitution, shall extend beyond the term of sixty-one days, nor any special session beyond the term of forty days.

SEC. 30. Ineligibility to certain offices.—No Senator or Representative shall, during the term for which he may have been elected, be eligible to any office, the election to which is vested in the General Assembly, nor shall he be appointed to any civil office of profit, which shall have been created, or the emoluments of which shall have been increased, during such term; but this

latter provision shall not be construed to apply to any office elective by the people.

ARTICLE V.

EXECUTIVE.

SECTION 1. **Governor.**—The executive powers of the State shall be vested in a Governor. He shall hold his office during four years, and shall not be eligible more than four years in any period of eight years.

SEC. 2. **Lieutenant Governor.**—There shall be a Lieutenant Governor, who shall hold his office during four years.

SEC. 3. **Election.**—The Governor and Lieutenant Governor shall be elected at the times and places of choosing members of the General Assembly.

SEC. 4. **Method of voting.**—In voting for Governor and Lieutenant Governor the electors shall designate for whom they vote as Governor, and for whom as Lieutenant Governor. The returns of every election for Governor and Lieutenant Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly.

SEC. 5. **Election by General Assembly.**—The persons, respectively, having the highest number of votes for Governor and Lieutenant Governor, shall be elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the General Assembly shall, by joint vote, forthwith proceed to elect one of the said persons Governor or Lieutenant Governor, as the case may be.

SEC. 6. **Contested election.**—Contested elections for Governor or Lieutenant Governor shall be determined by the General Assembly, in such manner as may be prescribed by law.

SEC. 7. **Qualifications.**—No person shall be eligible to the office of Governor or Lieutenant Governor, who shall not have been five years a citizen of the United States, and also a resident of the State of Indiana during the five years next preceding his election; nor shall any person be eligible to either of the said offices who shall not have attained the age of thirty years.

SEC. 8. **Officers ineligible.**—No member of Congress, or per-

son holding any office under the United States, or under this State, shall fill the office of Governor or Lieutenant Governor.

SEC. 9. Term.—The official term of the Governor or Lieutenant Governor shall commence on the second Monday of January, in the year one thousand eight hundred and fifty-three; and on the same day every fourth year thereafter.

SEC. 10. Vacancies.—In case of the removal of the Governor from office, or of his death, resignation or inability to discharge the duties of the office, the same shall devolve on the Lieutenant Governor; and the General Assembly shall, by law, provide for the case of removal from office, death, resignation, or inability, both of the Governor and Lieutenant Governor, declaring what officer then shall act as Governor; and such officer shall act accordingly until the disability be removed or a Governor be elected.

SEC. 11. President of Senate pro tem.—Whenever the Lieutenant Governor shall act as Governor, or shall be unable to attend as President of the Senate, the Senate shall elect one of its own members as President for the occasion.

SEC. 12. Commander-in-chief.—The Governor shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, or to suppress insurrection, or to repel invasion.

SEC. 13. Messages.—He shall, from time to time, give to the General Assembly information touching the condition of the State, and recommend such measures as he shall judge to be expedient.

SEC. 14. Bills signed or vetoed.—Every bill which shall have passed the General Assembly shall be presented to the Governor; if he approve, he shall sign it, but if not, he shall return it, with his objections, to the House in which it shall have originated, which House shall enter the objections at large upon its journals, and proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that House shall agree to pass the bill, it shall be sent, with the Governor's objections, to the other House, by which it shall likewise be reconsidered, and if approved by a majority of all the members elected to that House, it shall be a law. If any bill shall not be returned by the Governor within three days, Sundays excepted, after it shall have been presented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return, in which

case it shall be a law, unless the Governor, within five days next after such adjournment, shall file such bill, with his objections thereto, in the office of the Secretary of State, who shall lay the same before the General Assembly at its next session in like manner as if it had been returned by the Governor. But no bill shall be presented to the Governor within two days next previous to the final adjournment of the General Assembly.

SEC. 15. **Information from officers.**—The Governor shall transact all necessary business with the officers of Government, and may require any information in writing from the officers of the administrative department, upon any subject relating to the duties of their respective offices.

SEC. 16. **Execution of laws.**—He shall take care that the laws be faithfully executed.

SEC. 17. **Pardons.**—He shall have the power to grant reprieves, commutations and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the General Assembly at its next meeting, when the General Assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law, and shall report to the General Assembly at its next meeting, each case of reprieve, commutation or pardon granted, and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted: *Provided, however,* That the General Assembly may, by law, constitute a council, to be composed of officers of State, without whose advice and consent the Governor shall not have power to grant pardons, in any case, except such as may, by law, be left to his sole power.

SEC. 18. **Appointment to vacancies.**—When, during a recess of the General Assembly, a vacancy shall happen in any office, the appointment to which is vested in the General Assembly, or when, at any time, a vacancy shall have occurred in any other State office, or in the office of Judge of any court, the Governor shall fill such vacancy by appointment, which shall expire when a successor shall have been elected and qualified.

SEC. 19. Vacancies in the Assembly.—He shall issue writs of election to fill such vacancies as may have occurred in the General Assembly.

SEC. 20. Change of place of meeting.—Should the seat of Government become dangerous from disease or a common enemy, he may convene the General Assembly at any other place.

SEC. 21. Duties and rights of Lieutenant Governor.—The Lieutenant Governor shall, by virtue of his office, be President of the Senate; have a right, when in Committee of the Whole, to join in debate, and to vote on all subjects, and, whenever the Senate shall be equally divided, he shall give the casting vote.

SEC. 22. Compensation of Governor.—The Governor shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 23. Compensation of Lieutenant Governor.—The Lieutenant Governor, while he shall act as President of the Senate, shall receive for his services the same compensation as the Speaker of the House of Representatives; and any person acting as Governor shall receive the compensation attached to the office of Governor.

SEC. 24. Ineligibility.—Neither the Governor nor Lieutenant Governor shall be eligible to any other office during the term for which he shall have been elected.

ARTICLE VI.

ADMINISTRATIVE.

SECTION 1. Secretary, Auditor and Treasurer of State.—There shall be elected by the voters of the State, a Secretary, an Auditor, and a Treasurer of State, who shall severally hold their offices for two years. They shall perform such duties as may be enjoined by law; and no person shall be eligible to either of said offices more than four years in any period of six years.

SEC. 2. County officers: terms.—There shall be elected in each county, by the voters thereof, at the time of holding general elections, a Clerk of the Circuit Court, Auditor, Recorder, Treasurer, Sheriff, Coroner, and Surveyor. The Clerk, Auditor and Recorder shall continue in office four years; and no person shall

be eligible to the office of Clerk, Recorder or Auditor more than eight years in any period of twelve years. The Treasurer, Sheriff, Coroner, and Surveyor, shall continue in office two years; and no person shall be eligible to the office of Treasurer or Sheriff more than four years in any period of six years.

SEC. 3. Other officers.—Such other county and township officers as may be necessary, shall be elected or appointed, in such manner as may be prescribed by law.

SEC. 4. Qualifications.—No person shall be elected or appointed as a county officer, who shall not be an elector of the county; nor any one who shall not have been an inhabitant thereof during one year next preceding his appointment, if the county shall have been so long organized; but if the county shall not have been so long organized, then within the limits of the county or counties out of which the same shall have been taken.

SEC. 5. Residence of State officers.—The Governor, and the Secretary, Auditor and Treasurer of State, shall, severally, reside and keep the public records, books and papers, in any manner relating to the respective offices, at the seat of government.

SEC. 6. Residence of other officers.—All county, township, and town officers shall reside within their respective counties, townships, and towns, and shall keep their respective offices at such places therein, and perform such duties as may be directed by law.

SEC. 7. Impeachment of State officers.—All State officers shall, for crime, incapacity, or negligence, be liable to be removed from office, either by impeachment by the House of Representatives, to be tried by the Senate, or by a joint resolution of the General Assembly; two-thirds of the members elected to each branch voting, in either case, therefor.

SEC. 8. Impeachment of other officers.—All State, county, township, and town officers may be impeached, or removed from office, in such manner as may be prescribed by law.

SEC. 9. Vacancies.—Vacancies in county, township, and town offices shall be filled in such manner as may be prescribed by law.

SEC. 10. Powers of county boards.—The General Assembly may confer upon the Boards doing county business in the several counties, powers of a local administrative character.

ARTICLE VII.

JUDICIAL.

SECTION 1. Judicial power.—The Judicial power of the State shall be vested in a Supreme Court, in Circuit Courts, and in such other courts as the General Assembly may establish. [*As amended March 24, 1881.*]

SEC. 2. Supreme Court.—The Supreme Court shall consist of not less than three, nor more than five Judges; a majority of whom shall form a quorum. They shall hold their offices for six years, if they so long behave well.

SEC. 3. Judicial districts.—The State shall be divided into as many districts as there are Judges of the Supreme Court, and such districts shall be formed of contiguous territory, as nearly equal in population as, without dividing a county, the same can be made. One of said Judges shall be elected from each district, and reside therein; but said Judge shall be elected by the electors of the State at large.

SEC. 4. Jurisdiction of Supreme Court.—The Supreme Court shall have jurisdiction, co-extensive with the limits of the State, in appeals and writs of error, under such regulations and restrictions as may be prescribed by law. It shall also have such original jurisdiction as the General Assembly may confer.

SEC. 5. Written decisions.—The Supreme Court shall, upon the decision of every case, give a statement in writing of each question arising in the record of such case, and the decision of the Court thereon.

SEC. 6. Reports.—The General Assembly shall provide by law, for the speedy publication of the decisions of the Supreme Court, made under this Constitution, but no judge shall be allowed to report such decision.

SEC. 7. Clerk.—There shall be elected by the voters of the State, a Clerk of the Supreme Court, who shall hold his office four years, and whose duties shall be prescribed by law.

SEC. 8. Circuit Courts.—The Circuit Courts shall each consist of one judge, and shall have such civil and criminal jurisdiction as may be prescribed by law.

SEC. 9. Circuit judges.—The State shall, from time to time, be divided into judicial circuits, and a judge for each circuit shall be elected by the voters thereof. He shall reside within the cir-

cuit, and shall hold his office for the term of six years, if he so long behave well.

SEC. 10. **Special judges.**—The General Assembly may provide, by law, that the judge of one circuit may hold the courts of another circuit, in cases of necessity or convenience; and in case of temporary inability of any judge, from sickness or other cause, to hold the courts in his circuit, provision may be made, by law, for holding such courts.

SEC. 11. **Prosecuting attorneys.**—There shall be elected, in each judicial circuit, by the voters thereof, a prosecuting attorney, who shall hold his office for two years.

SEC. 12. **Removal of judges and prosecutors.**—Any judge or prosecuting attorney, who shall have been convicted of corruption or other high crime, may, on information in the name of the State, be removed from office by the Supreme Court, or in such other manner as may be prescribed by law.

SEC. 13. **Pay of judges.**—The judges of the Supreme Court and Circuit Courts shall, at stated times, receive a compensation, which shall not be diminished during their continuance in office.

SEC. 14. **Justices of the peace.**—A competent number of justices of the peace shall be elected by the voters in each township in the several counties. They shall continue in office four years, and their powers and duties shall be prescribed by law.

SEC. 15. **Conservators of the peace.**—All judicial officers shall be conservators of the peace in their respective jurisdictions.

SEC. 16. **Ineligibility.**—No person elected to any judicial office shall, during the term for which he shall have been elected, be eligible to any office of trust or profit under the State, other than a judicial office.

SEC. 17. **Grand jury system.**—The General Assembly may modify or abolish the Grand Jury system.

SEC. 18. **Criminal prosecutions.**—All criminal prosecutions shall be carried on in the name, and by the authority of the State; and the style of all processes shall be, "The State of Indiana."

SEC. 19. **Courts of conciliation.**—Tribunals of conciliation may be established, with such powers and duties as shall be prescribed by law; or the powers and duties of the same may be conferred upon other courts of justice; but such tribunals or other courts, when sitting as such, shall have no power to render judgment to be obligatory on the parties unless they voluntarily

submit their matters of difference and agree to abide the judgment of such tribunal or court.

SEC. 20. Revision of laws.—The General Assembly, at its first session after the adoption of this Constitution, shall provide for the appointment of three commissioners whose duty it shall be to revise, simplify and abridge the rules, practice, pleadings and forms of the courts of justice. And they shall provide for abolishing the distinct forms of action at law now in use; and that justice shall be administered in a uniform mode of pleading, without distinction between law and equity. And the General Assembly may, also, make it the duty of said commissioners to reduce into a systematic code the general statute law of the State; and said commissioners shall report the result of their labors to the General Assembly, with such recommendations and suggestions, as to the abridgment and amendment, as to said commissioners may seem necessary or proper. Provision shall be made by law for filling vacancies, regulating the tenure of office and the compensation of said commissioners.

SEC. 21. Lawyers.—Every person of good moral character, being a voter, shall be entitled to admission to practice law in all courts of justice.

ARTICLE VIII.

EDUCATION.

SECTION 1. Education free.—Knowledge and learning generally diffused throughout a community, being essential to the preservation of a free government, it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific and agricultural improvement, and to provide by law for a general and uniform system of common schools, wherein tuition shall be without charge, and equally open to all.

SEC. 2. Common school fund.—The common school fund shall consist of the congressional township fund, and the lands belonging thereto;

The surplus revenue fund;

The saline fund, and the lands belonging thereto;

The bank tax fund, and the fund arising from the one hundred and fourteenth section of the charter of the State Bank of Indiana;

The fund to be derived from the sale of county seminaries, and the moneys and property heretofore held for such seminaries; from the fines assessed for breaches of the penal laws of the State; and from all forfeitures which may accrue;

All lands and other estate which shall escheat to the State for want of heirs or kindred entitled to the inheritance;

All lands that have been or may hereafter be granted to the State, where no special purpose is expressed in the grant, and the proceeds of the sales thereof: including the proceeds of the sales of the Swamp Lands granted to the State of Indiana by the act of Congress, of the 28th of September, 1850, after deducting the expense of selecting and draining the same;

Taxes on the property of corporations that may be assessed by the General Assembly for Common School purposes.

SEC. 3. Principal perpetual.—The principal of the Common School Fund shall remain a perpetual fund, which may be increased, but shall never be diminished; and the income thereof shall be inviolably appropriated to the support of Common Schools, and to no other purpose whatever.

SEC. 4. Investment and interest.—The General Assembly shall invest, in some safe and profitable manner, all such portions of the Common School Fund as have not heretofore been entrusted to the several counties; and shall make provisions, by law, for the distribution, among the several counties, of the interest thereof.

SEC. 5. Re-investment.—If any county shall fail to demand its proportion of such interest for Common School purposes, the same shall be reinvested for the benefit of such county.

SEC. 6. Counties liable.—The several counties shall be held liable for the preservation of so much of the said fund as may be entrusted to them, and for the payment of the annual interest thereon.

SEC. 7. Trust fund inviolate.—All trust funds held by the State shall remain inviolate, and be faithfully and exclusively applied to the purposes for which the trust was created.

SEC. 8. State Superintendent of Public Instruction.—The General Assembly shall provide for the election, by the voters of the State, of a State Superintendent of Public Instruction, who shall hold his office for two years, and whose duties and compensation shall be prescribed by law.

ARTICLE IX.

STATE INSTITUTIONS.

SECTION 1. Benevolent institutions.—It shall be the duty of the General Assembly to provide by law for the support of Institutions for the Education of the Deaf and Dumb, and of the Blind; and, also, for the treatment of the Insane.

SEC. 2. Juvenile offenders.—The General Assembly shall provide Houses of Refuge for the correction and reformation of juvenile offenders.

SEC. 3. County asylums.—The County Boards shall have power to provide farms as an asylum for those persons who, by reason of age, infirmity, or other misfortune, have claims upon the sympathies and aid of society.

ARTICLE X.

FINANCE.

SECTION 1. Assessment and taxation.—The General Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious or charitable purposes, as may be specially exempted by law.

SEC. 2. Application of revenues.—All the revenues derived from the sale of any of the public works belonging to the State, and from the net annual income thereof, and any surplus that may, at any time, remain in the Treasury derived from taxation for general State purposes, after the payment of the ordinary expenses of the government, and of the interest on bonds of the State, other than bank bonds, shall be annually applied, under the direction of the General Assembly, to the payment of the principal of the public debt.

SEC. 3. Appropriations.—No money shall be drawn from the Treasury but in pursuance of appropriations made by law.

SEC. 4. Exhibit of receipts and expenditures.—An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the General Assembly.

SEC. 5. Contracting of debts.—No law shall authorize any debt to be contracted, on behalf of the State, except in the following cases: To meet casual deficits in the revenue; to pay the interest on the State debt; to repel invasion, suppress insurrection, or, if hostilities be threatened, provide for public defense.

SEC. 6. County ownership of stock.—No county shall subscribe for stock in any incorporated company, unless the same be paid for at the time of such subscription; nor shall any county loan its credit to any incorporated company, nor borrow money for the purpose of taking stock in any such company; nor shall the General Assembly ever, on behalf of the State, assume the debts of any county, city, town or township, nor of any corporation whatever.

SEC. 7. Wabash and Erie Canal.—No law or resolution shall ever be passed by the General Assembly of the State of Indiana that shall recognize any liability of this State to pay or redeem any certificate of stock issued in pursuance of an act entitled "An act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville," passed January 19, 1846, and an act supplemental to said act passed January 29, 1847, which by the provisions of the said acts, or either of them, shall be payable exclusively from the proceeds of the canal lands, and the tolls and revenues of the canal in said acts mentioned; and no such certificates of stock shall ever be paid by this State.

[NOTE.—Agreed to by a majority of the members elected to each of the two houses of the General Assembly, Regular Session of 1871, and referred to the General Assembly to be chosen at the next general election. Agreed to by a majority of the members elected to each house of the General Assembly, Special Session of 1872. Submitted to the electors of the State by an act approved January 28, 1873. Ratified by a majority of the electors, at an election held on the 18th day of February, 1873. Declared a part of the Constitution by proclamation of Thomas A. Hendricks, Governor, dated March 7, 1873.]

ARTICLE XI.

CORPORATIONS.

SECTION 1. Incorporation of banks.—The General Assembly shall not have power to establish, or incorporate any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer, except under the conditions prescribed in this Constitution.

SEC. 2. General banking law.—No bank shall be established otherwise than under a general banking law, except as provided in the fourth section of this article.

SEC. 3. Control of circulating notes.—If the General Assembly shall enact a general banking law, such law shall provide for the registry and countersigning, by an officer of State, of all paper credit designed to be circulated as money; and ample collateral security, readily convertible into specie, for the redemption of the same in gold or silver, shall be required; which collateral security shall be under the control of the proper officer or officers of the State.

SEC. 4. Bank with branches.—The General Assembly may also charter a bank with branches, without collateral security, as required in the preceding section.

SEC. 5. Mutual responsibility.—If the General Assembly shall establish a bank with branches, the branches shall be mutually responsible for each other's liabilities, upon all paper credit issued as money.

SEC. 6. Responsibility of stockholders.—The stockholders in every bank, or banking company, shall be individually responsible to an amount over and above their stock, equal to their respective shares of stock, for all debts or liabilities of said bank or banking company.

SEC. 7. Specie payments.—All bills or notes issued as money, shall be, at all times, redeemable in gold or silver; and no law shall be passed, sanctioning, directly or indirectly, the suspension, by any bank or banking company, of specie payments.

SEC. 8. Preference to note-holders.—Holders of bank notes shall be entitled, in case of insolvency, to preference of payment over all other creditors.

SEC. 9. Rate of interest.—No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals loaning money.

SEC. 10. Time-limit.—Every bank, or banking company, shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter to close its business.

SEC. 11. Safety of trust funds.—The General Assembly is not prohibited from investing the trust funds in a bank with

branches; but in case of such investment, the safety of the same shall be guaranteed by unquestionable security.

SEC. 12. **State not a stockholder.**—The State shall not be a stockholder in any bank, after the expiration of the present bank charter; nor shall the credit of the State ever be given, or loaned, in aid of any person, association, or corporation, nor shall the State hereafter become a stockholder in any corporation or association.

SEC. 13. **Corporations under general laws.**—Corporations, other than banking, shall not be created by special act, but may be formed under general laws.

SEC. 14. **Individual liability.**—Dues from corporations, other than banking, shall be secured by such individual liability of the corporators, or other means, as may be prescribed by law.

ARTICLE XII.

MILITIA.

SECTION 1. **Composition and organization.**—The militia shall consist of all able-bodied white male persons between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States, or of this State; and shall be organized, officered, armed, equipped and trained in such manner as may be provided by law.

SEC. 2. **Aids.**—The Governor shall appoint the Adjutant, Quartermaster and Commissary Generals.

SEC. 3. **Commissions.**—All militia officers shall be commissioned by the Governor, and shall hold their offices not longer than six years.

SEC. 4. **Division of militia.**—The General Assembly shall determine the method of dividing the militia into divisions, brigades, regiments, battalions and companies, and fix the rank of all staff officers.

SEC. 5. **Sedentary and active.**—The militia may be divided into classes of sedentary and active militia in such manner as shall be prescribed by law.

SEC. 6. **Exemption.**—No person conscientiously opposed to bearing arms shall be compelled to do militia duty; but such person shall pay an equivalent for exemption; the amount to be prescribed by law.

ARTICLE XIII.

POLITICAL AND MUNICIPAL CORPORATIONS.

SECTION 1. Limitation on debts.—No political or municipal corporation in this State shall ever become indebted, in any manner or for any purpose, to any amount, in the aggregate exceeding two per centum on the value of taxable property within such corporation, to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness, and all bonds or obligations, in excess of such amount, given by such corporations, shall be void: *Provided*, That in time of war, foreign invasion, or other great public calamity, on petition of a majority of the property owners, in number and value, within the limits of such corporation, the public authorities, in their discretion, may incur obligations necessary for the public protection and defense, to such an amount as may be requested in such petition.

[*The original Article 13 is stricken out and the amendment of March 24, 1881, inserted in lieu thereof.*]

ARTICLE XIV.

BOUNDARIES.

SECTION 1. Boundaries.—In order that the boundaries of the State may be known and established, it is hereby ordained and declared, that the State of Indiana is bounded on the east by the meridian line which forms the western boundary of the State of Ohio; on the south by the Ohio River, from the mouth of the Great Miami River to the mouth of the Wabash River; on the west, by a line drawn along the middle of the Wabash River, from its mouth to a point where a due north line, drawn from the town of Vincennes, would last touch the northwestern shore of said Wabash River; and thence by a due north line, until the same shall intersect an east and west line, drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north by said east and west line, until the same shall intersect the first-mentioned meridian line, which forms the western boundary of the State of Ohio.

SEC. 2. Jurisdiction.—The State of Indiana shall possess jurisdiction, and sovereignty co-extensive with the boundaries

declared in the preceding section; and shall have concurrent jurisdiction, in civil and criminal cases, with the State of Kentucky on the Ohio River, and with the State of Illinois on the Wabash River, so far as said rivers form the common boundary between this State and said States respectively.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. Election of officers.—All officers whose appointment is not otherwise provided for in this Constitution, shall be chosen in such manner as now is, or hereafter may be, prescribed by law.

SEC. 2. Term of office.—When the duration of any office is not provided for by this Constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the General Assembly shall not create any office, the tenure of which shall be longer than four years.

SEC. 3. Holding over.—Whenever it is provided in this Constitution, or in any law which may be hereafter passed, that any officer, other than a member of the General Assembly, shall hold his office for any given term, the same shall be construed to mean that such officer shall hold his office for such term, and until his successor shall have been elected and qualified.

SEC. 4. Oath.—Every person elected or appointed to any office under this Constitution shall, before entering on the duties thereof, take an oath or affirmation to support the Constitution of this State and of the United States, and also an oath of office.

SEC. 5. State Seal.—There shall be a seal of the State, kept by the Governor for official purposes, which shall be called the Seal of the State of Indiana.

SEC. 6. Commissions.—All commissions shall issue in the name of the State, shall be signed by the Governor, sealed by the State Seal, and attested by the Secretary of State.

SEC. 7. Size of counties.—No county shall be reduced to an area less than four hundred square miles; nor shall any county under that area be further reduced.

SEC. 8. Lotteries forbidden.—No lottery shall be authorized, nor shall the sale of lottery tickets be allowed.

SEC. 9. **State grounds.**—The following grounds owned by the State in Indianapolis, namely : the State House Square, the Governor's Circle, and so much of out-lot numbered one hundred and forty-seven as lies north of the arm of the Central Canal, shall not be sold or leased.

SEC. 10. **Tippecanoe Battle Ground.**—It shall be the duty of the General Assembly to provide for the permanent enclosure and preservation of the Tippecanoe Battle Ground.

ARTICLE XVI.

AMENDMENTS.

SECTION 1. **Method.**—Any amendment or amendments to this Constitution may be proposed in either branch of the General Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals and referred to the General Assembly to be chosen at the next general election; and, if in the General Assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the General Assembly to submit such amendment or amendments to the electors of the State, and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this Constitution.

SEC. 2. **Separate votes.**—If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately; and while such an amendment or amendments which shall have been agreed upon by one General Assembly shall be awaiting the action of the succeeding General Assembly, or of the electors, no additional amendment or amendments shall be proposed.

SCHEDULE.

Taking effect of Constitution.—This Constitution, if adopted, shall take effect on the first day of November, in the year one thousand eight hundred and fifty-one, and shall supersede the Constitution adopted in the year one thousand eight hundred and

sixteen. That no inconvenience may arise from the change in the government, it is hereby ordained as follows:

Laws continued.—*First.* All laws now in force, and not inconsistent with this Constitution, shall remain in force until they shall expire or be repealed.

Judicial proceedings continued.—*Second.* All indictments, prosecutions, suits, pleas, complaints and other proceedings pending in any of the Courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, certiorari and injunctions shall be carried on in the several Courts, in the same manner as is now provided by law.

Fines, etc., continued.—*Third.* All fines, penalties and forfeitures, due or accruing to the State, or to any county therein, shall inure to the State, or to such county in the manner prescribed by law. All bonds executed to the State, or to any officer, in his official capacity, shall remain in force, and inure to the use of those concerned.

Corporations continued.—*Fourth.* All acts of incorporation for municipal purposes shall continue in force under this Constitution, until such time as the General Assembly shall, in its discretion, modify or repeal the same.

Governor to continue.—*Fifth.* The Governor, at the expiration of the present official term, shall continue to act until his successor shall have been sworn into office.

General Assembly.—*Sixth.* There shall be a session of the General Assembly, commencing on the first Monday of December, in the year one thousand eight hundred and fifty-one.

Legislators to continue.—*Seventh.* Senators now in office and holding over, under the existing Constitution, and such as may be elected at the next general election, and the Representatives then elected, shall continue in office until the first general election under this Constitution.

First election.—*Eighth.* The first general election under this Constitution shall be held in the year one thousand eight hundred and fifty-two.

Election of State officers.—*Ninth.* The first election for Governor, Lieutenant Governor, Judges of the Supreme Court and Circuit Courts, Clerk of the Supreme Court, Prosecuting Attorney, Secretary, Auditor, and Treasurer of State, and State Superintendent of Public Instruction, under this Constitution, shall be held at

the general election in the year one thousand eight hundred and fifty-two; and such of said officers as may be in office when this Constitution shall go into effect, shall continue in their respective offices until their successors shall have been elected and qualified.

Officers to continue.—*Tenth.* Every person elected by popular vote, and now in any office which is continued by this Constitution, and every person who shall be so elected to any such office before the taking effect of this Constitution (except as in this Constitution otherwise provided), shall continue in office until the term for which such person has been, or may be, elected, shall expire: *Provided*; That no such person shall continue in office after the taking effect of this Constitution, for a longer period than the term of such office in this Constitution prescribed.

Oath.—*Eleventh.* On the taking effect of this Constitution, all officers thereby continued in office shall, before proceeding in the further discharge of their duties, take an oath or affirmation to support this Constitution.

Vacancies.—*Twelfth.* All vacancies that may occur in existing offices prior to the first general election under this Constitution, shall be filled in the manner now prescribed by law.

Vote on Thirteenth Article.—*Thirteenth.* At the time of submitting this Constitution to the electors for their approval or disapproval, the article numbered thirteen, in relation to negroes and mulattoes, shall be submitted as a distinct proposition, in the following form: "Exclusion and Colonization of Negroes and Mulattoes," "Aye," or "No." And if a majority of the votes cast shall be in favor of said article, then the same shall form a part of this Constitution, otherwise it shall be void and form no part thereof.

General submission.—*Fourteenth.* No article or section of this Constitution shall be submitted as a distinct proposition to a vote of the electors otherwise than as herein provided.

Perry and Spencer counties.—*Fifteenth.* Whenever a portion of the citizens of the counties of Perry and Spencer shall deem it expedient to form, of the contiguous territory of said counties, a new county, it shall be the duty of those interested in the organization of such new county, to lay off the same by proper metes and bounds of equal portions as nearly as practicable, not to exceed one-third of the territory of each of said counties. The proposal to create such new county shall be submitted to the voters of said counties, at a general election, in such manner as

shall be prescribed by law. And if a majority of all the votes given at said election shall be in favor of the organization of said new county, it shall be the duty of the General Assembly to organize the same out of the territory thus designated.

Clarksville.—*Sixteenth.* The General Assembly may alter or amend the charter of Clarksville, and make such regulations as may be necessary for carrying into effect the objects contemplated in granting the same, and the funds belonging to said town shall be applied according to the intention of the grantor.

Done in Convention, at Indianapolis, the tenth day of February, in the year of our Lord, one thousand eight hundred and fifty-one; and of the independence of the United States, the seventy-fifth.

GEORGE WHITFIELD CARR,

President and Delegate from the County of Lawrence.

Attest: WM. H. ENGLISH,

Principal Secretary.

GEO. L. SITES,

HERMAN G. BARKWELL,

ROBERT M. EVANS,

Assistant Secretaries.

ADDENDA.

The original sections stricken out or amended read as follows:

ARTICLE II.

SUFFRAGE AND ELECTION.

SECTION 2. In all elections, not otherwise provided for by this Constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election; and every white male, of foreign birth of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject

of naturalization, shall be entitled to vote in the township or precinct where he may reside.

SEC. 5. No negro or mulatto shall have the right of suffrage.

SEC. 14. All general elections shall be held on the second Tuesday in October.

ARTICLE IV.

LEGISLATIVE.

SECTION 4. The General Assembly shall, at its second session after the adoption of this Constitution, and every six years thereafter, cause an enumeration to be made of all the *white* male inhabitants over the age of twenty-one years.

SEC. 5. The number of Senators and Representatives shall, at the session next following each period of making such enumeration, be fixed by law, and apportioned among the several counties, according to the number of *white* male inhabitants, above twenty-one years of age, in each: *Provided*, That the first and second elections of members of the General Assembly, under this Constitution, shall be according to the apportionment last made by the General Assembly, before the adoption of this Constitution.

SEC. 22. In relation to fees or salaries:

ARTICLE VII.

JUDICIAL.

SECTION 1. The Judicial power of the State shall be vested in a Supreme Court, in Circuit Courts, and in such inferior courts as the General Assembly may establish.

ARTICLE XIII.

NEGROES AND MULATTOS.

SECTION 1. No negro or mulatto shall come into, or settle in, the State, after the adoption of this Constitution.

SEC. 2. All contracts made with any negro or mulatto coming into the State, contrary to the provisions of the foregoing section, shall be void; and any person who shall employ such negro or mulatto, or otherwise encourage him to remain in the State, shall be fined in any sum not less than ten dollars, nor more than five hundred dollars.

SEC. 3. All fines which may be collected for a violation of the provisions of this article, or of any law which may hereafter be passed for the purpose of carrying the same into execution, shall be set apart and appropriated for the colonization of such negroes and mulattoes, and their descendants, as may be in the State at the adoption of this Constitution, and may be willing to emigrate.

SEC. 4. The General Assembly shall pass laws to carry out the provisions of this article.

[NOTE.—All of the amendments to the Constitution (except the seventh section of Article X.) were agreed to by the General Assemblies at the sessions of 1877 and 1879. Gov. Albert G. Porter on February 21, 1881, in accordance with an act passed that same day, issued a proclamation submitting the proposed amendments to the people at a special election to be held March 14, 1881. On that day they were ratified by a majority of the electors, and on March 24, 1881, Governor Porter in proclamation declared them a part of the Constitution.]

APPENDIX.

THE OFFICIAL LIST OF THE GOVERNORS OF INDIANA, WITH TIME OF SERVICE.

TERRITORIAL GOVERNORS.

NORTHWEST TERRITORY.

	From	To
Arthur St. Clair	1787	1800

INDIANA TERRITORY.

John Gibson (acting)	1800	Jan. 10, 1801
William H. Harrison	1801	1812 ¹
Thomas Posey	1812	1816

GOVERNORS OF THE STATE.

Jonathan Jennings	1816	1822 ²
Ratliffe Boone (acting)	Sept. 12	Dec. 5, 1822
William Hendricks	1822	1825
James B. Ray (acting)	Feb. 12	Dec. 11, 1825 ³
James B. Ray	1825	1831
Noah Noble	1831	1837
David Wallace	1837	1840
Samuel Bigger	1840	1843
James Whitcomb	1843	1848

¹ Governor Harrison was appointed early in the year 1800, but was not sworn into office until January 10, 1801. John Gibson, the secretary of the Territory, acted as Governor until his arrival.

² Jonathan Jennings, having been elected to Congress, resigned the office of Governor September 12, 1822, and was succeeded by Ratliffe Boone, who served until December 5, 1822.

³ Governor Hendricks, having been elected a senator of the United States, resigned his office, and was succeeded by James B. Ray, the Lieutenant-Governor.

Paris C. Dunning (acting)	1848	1849 ¹
Joseph A. Wright	1849	1857
Ashbel P. Willard	1857	1860
Abram A. Hammond (acting)	1860	1861 ²
Henry S. Lane	Jan. 14 Jan. 16, 1861 ³	
Oliver P. Morton (acting)	1861	1865
Oliver P. Morton	1865	1867
Conrad Baker (acting)	1867	1869 ⁴
Conrad Baker	1869	1873
Thomas A. Hendricks	1873	1877
James D. Williams	1877	1880
Isaac P. Gray (acting)	1880	1881 ⁵
Albert G. Porter	1881	1885
Isaac P. Gray	1885	1889
Alvin P. Hovey	1889	1891 ⁶
Ira J. Chase (acting)	1891	1893
Claude Matthews	1893	1897
James A. Mount	1897	1901
Winfield T. Durbin	1901	1905
J. Frank Hanly	1905	

THE CONGRESSIONAL SURVEY.

According to the system adopted in 1785, the surveyors first establish a meridian line starting from some conspicuous object, as a *principal meridian*. A parallel at right angles to this is selected as a *base line*. East and west of the principal meridian, at every sixth mile, are run additional meridians, called *range lines*; north and south of the base-line, at every sixth mile, are drawn additional parallels called *township lines*. This divides the land into squares of 36 miles each, called *townships*. The townships are numbered north and south of the base line, and the ranges east and west of the principal meridian.

¹ Governor Whitcomb was elected a senator of the United States December 27, 1848, and Paris C. Dunning, Lieutenant-Governor, served as Governor during the remainder of the term.

² Governor Willard died on October 3, 1860, and Abram A. Hammond, the Lieutenant-Governor, served as Governor during the remainder of the term.

³ Governor Lane was elected a senator of the United States January 16, 1861, and Oliver P. Morton, the Lieutenant-Governor, served as Governor the remainder of the term.

⁴ Governor Oliver P. Morton was elected a senator of the United States January 23, 1867, and Conrad Baker, the Lieutenant-Governor, served as Governor during the remainder of the term.

⁵ Governor Williams died November 20, 1880, and Isaac P. Gray, Lieutenant-Governor, served as Governor the remainder of the term.

⁶ Governor Hovey died November 23, 1891, and Lieutenant-Governor Ira J. Chase served as Governor the remainder of the term.

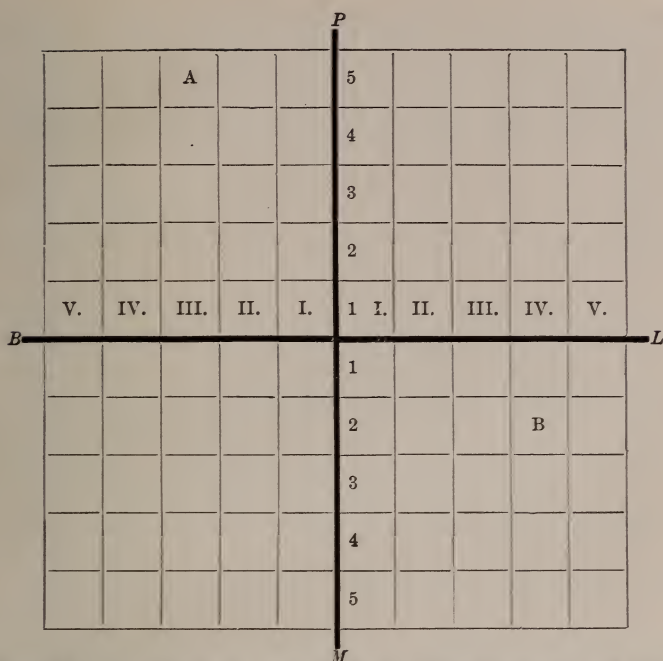


DIAGRAM I.—Illustrating the division of land into townships. PM =principal meridian; BL =base line. The figures mark the townships; the Roman letters, the ranges. B is in township 2 south, and range 4 east.

Each township is divided by lines parallel to both the base line and the principal meridian into 36 sections, each containing one square mile or 640 acres. These sections are numbered beginning at the northeast corner.

Distinguishing marks are located at the corners of the sections and at the half-mile points between them, and are recorded in the surveyors' books. From these starting-points, the sections are subdivided into halves, quarters, eighths, and sixteenths by the local surveyors. With such a system, the location and description of land is a comparatively easy thing.

The first principal meridian is a line running due north from the mouth of the Miami River, and forms the eastern boundary line of the State. The second principal meridian runs from the mouth of Little Blue River. The only base line which runs through the State is the parallel of $38^{\circ} 30'$ north latitude. In Indiana the townships are numbered north and south from this line and the ranges east and west from

the second principal meridian, with the following exceptions: the lands in "Clark's Grant," the French Lands in Knox County, and the lands lying east of the "Greenville Line" (see § 22 and foot-note 1). The last mentioned were surveyed west from the first principal meridian and north from a base line 15 miles north of the parallel of $38^{\circ} 30'$.

6	5	4	3	2	1	$\frac{1}{4}$
					$\frac{1}{2}$	$\frac{1}{8}$
7	8	9	10	11	12	$\frac{1}{16}$
18	17	16	15	14	13	
19	20	21	22	23	24	
30	29	28	27	26	25	
31	32	33	34	35	36	

DIAGRAM II.—Illustrating the division of a township (marked A in Diagram I). The part *q* would be described as the northeast quarter ($\frac{1}{4}$) of the southeast quarter ($\frac{1}{4}$) of section 1, township 5 north, range 3 west.

STATISTICAL INFORMATION OF INDIANA.

Total population (1900) ¹	2,516,462
Number of inhabitants to the square mile ¹	70.1
Native-born population ¹	2,374,341
Illiterate population (10 years of age and over) ¹	90,539
Per cent. of population illiterate	4.6
Population 1905 (estimated)	2,700,000
Gross square miles in the State ²	36,3.0
Square miles in water ²	440
Extreme length north and south in miles ²	276
Average width east and west in miles ²	140
Value of lands and improvements ¹	\$841,735,340
Value of implements and machinery ¹	27,330,370
Value of live stock ¹	109,550,761
Total value of farm products ¹	204,450,196

¹ See United States census of 1900.

² See Report of the Bureau of Statistics of Indiana for 1896.

Amount of capital invested in manufactures ¹	\$234,481,528
Amount of wages paid annually ¹	66,847,317
Value of manufactured product ¹	378,120,140
State expenditures, net (1903) ²	5,913,875
County expenditures (1901) ³	7,194,956 ⁴
State indebtedness (1903) ²	2,437,615
County indebtedness (1901) ³	7,168,309 ⁵
Total school fund (June, 1903)	10,498,638
Total value of school property (1903)	24,840,870

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¹ See United States census of 1900.

² See Report of Auditor of State, 1903.

³ See Report of the Bureau of Statistics of Indiana for 1902.

⁴ This does not include expenditures made by the civil and the school municipal corporations, which in 1890 exceeded \$9,500,000.

⁵ This does not include the indebtedness of municipalities and school districts, which in 1890 aggregated \$9,498,333.



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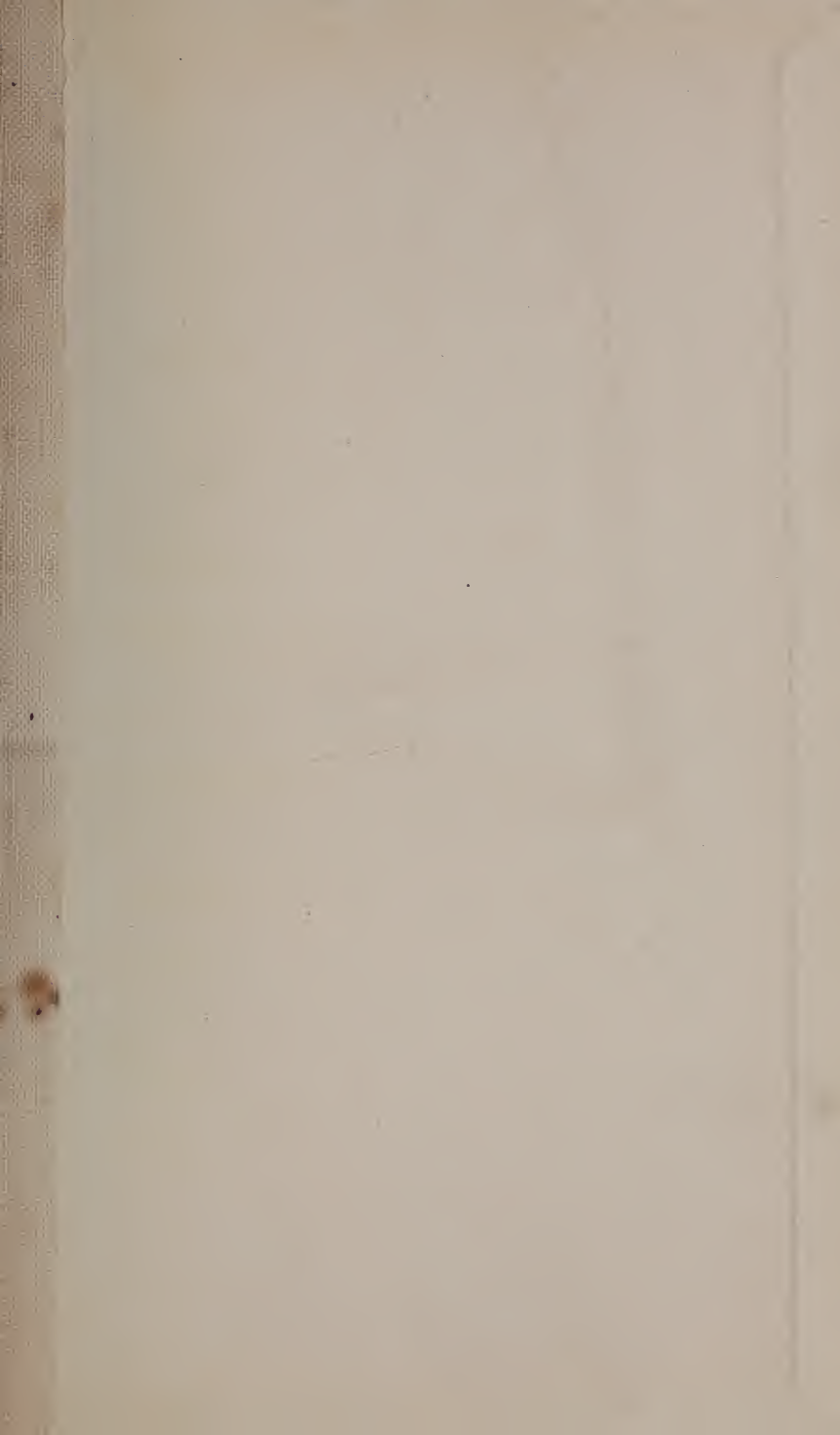
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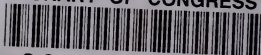
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